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6 Attorneys for Defendants
San Diego United Holdings Group, LLC, Ninus Malan
7 And Balboa Ave Cooperative

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Superior Court of California,
County of San Diego
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO- CENTRAL DIVISION**

11
12 MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
13 California Nonprofit Mutual Benefit
Corporation,

14 Plaintiff,

15 vs.

16 BALBOA AVE COOPERATIVE, a
California corporation; SAN DIEGO
17 UNITED HOLDINGS GROUPS, LLC, a
California limited liability company;
18 NINUS MALAN, an individual; RAZUKI
INVESTMENTS, LLC, a California
19 limited liability company; SALAM
RAZUKI, an individual; and DOES 1
20 through 25, inclusive;

21 Defendants.
22

CASE NO. 37-2017-00019384-CU-CO-CTL

**DECLARATION OF TAMARA M.
LEETHAM IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
APPLICATION FOR ENFORCEMENT OF
SETTLEMENT**

[IMAGED FILE]

JUDGE: Hon. Ronald L. Styn
DATE: January 10, 2019
TIME: 8:30 a.m.
DEPT: C-74

23 I, Tamara M. Leetham, declare:

24 1. I am over the age of 18 and I am not a party to this action. I have personal
25 knowledge of the facts stated in this declaration. If called as a witness, I would testify
26 competently thereto. I provide this declaration in support of defendants San Diego United
27 Holdings Group, LLC, Balboa Ave Cooperative, and Ninus Malan's opposition to plaintiff
28

1 Montgomery Field Business Condominiums Association's ("Association" or "Plaintiff")
2 application for enforcement of settlement agreement ("Plaintiff's Application").

3 2. On or about May 26, 2017, the Association filed a complaint in the Superior Court
4 of California, County of San Diego, case number 37-2017-00019384-CU-CO-CTL, styled as
5 "*Montgomery Field Business Condominiums Association v. Balboa Ave Cooperative, et. al.*" (the
6 "Complaint"). Attached to my declaration as Exhibit A is a true and correct copy of the
7 Association's Complaint.

8 3. The Complaint alleged that Balboa Ave Cooperative, San Diego United Holdings
9 Group, LLC, Ninus Malan, Razuki Investments, LLC, and Salam Razuki, were in breach of the
10 Association's Covenants, Conditions and Restrictions (CC&Rs). Specifically, the Complaint
11 alleged it was a violation to operate a commercial cannabis business on the real property located
12 at 8863 Balboa Ave, Suite E, and 8861 Balboa Ave, Suite B, San Diego, CA 92123 (hereinafter
13 the "Balboa Dispensary").

14 4. On or about February 13, 2018, the parties to this dispute entered into a Settlement
15 Agreement (the "Agreement"), which established terms to resolve this lawsuit. Attached to my
16 declaration as Exhibit B is a true and correct copy of the Agreement.

17 5. Concurrently with signing the Agreement, the parties signed a Stipulation for
18 Entry of Judgment Upon Default (the "Stipulation") and Order thereon. Attached to my
19 declaration as Exhibit C is a true and correct copy of the Stipulation.

20 6. In or about July 2018, defendant Salam Razuki sued defendants Ninus Malan, San
21 Diego United Holdings Group, LLC, and Balboa Ave Cooperative (among others) alleging claims
22 to the Balboa Dispensary, which is currently pending before the honorable Eddie C. Sturgeon in
23 Department 67 of the San Diego Superior Court, entitled *Razuki v. Ninus Malan, et al.*, case
24 number 37-2018-00034229-CU-BC-CTL ("Razuki Lawsuit").

25 7. In the Razuki Lawsuit, I represent the same parties that I represent in this lawsuit
26 e.g. Balboa Ave Cooperative, San Diego United Holdings Group, LLC, and Ninus Malan.

27 8. Since the Razuki Lawsuit was commenced, the law in motion has been intense and
28 hotly contested and the parties have been in court more than half a dozen times, in front of three

1 different judges (Judge Medel, Judge Strauss, and Judge Sturgeon) litigating a preliminary
2 injunction that includes a receivership. The Razuki Litigation, and more specifically the Court
3 appointed receiver, has severely and detrimentally impacted my clients' ability to perform the
4 Agreement in this case.

5 9. On or about August 20, 2018, in the Razuki Litigation, Judge Sturgeon granted a
6 temporary restraining order that appointed a man named Michael Essary (the "Receiver") as a
7 Receiver over numerous cannabis related entities including Balboa Ave Cooperative and San
8 Diego United Holdings Group. (*See Declaration of Michael Essary* filed concurrently herewith.)

9 10. On or about September 7, 2018, Judge Sturgeon granted a preliminary injunction
10 that continued the receivership, and which was reduced to a signed Order Confirming Receiver
11 and Granting Preliminary Injunction (the "Order" or "Receiver Order") on September 26, 2018.
12 (*See Essary Declaration.*)

13 11. Prior to the receivership, my clients paid the amounts due under the Agreement.
14 Since the Court appointed receiver took over, the Receivership has drained my clients' resources
15 and has left my clients unable to perform under the Agreement. The Receivership expenses, and
16 the Razuki Litigation, rather than the businesses themselves, has taken priority over all other
17 expenses and has caused significant hardship.

18 12. On numerous occasions, I have notified the Court that the Receivership expenses
19 pose a threat of irreparable harm to the businesses under its control. The Balboa Dispensary has
20 been driven to insolvency and was forced to close its doors. Attached to my declaration as Exhibit
21 D is a true and correct copy of the email notification of the Balboa Dispensary's closure.

22 13. I tried to impress upon all the parties in the Razuki Litigation, including the
23 Receiver, the profound importance of paying under the Agreement. As early as October 2, 2018,
24 Ninus Malan notified the Receiver of obligations to the Association. Attached to my declaration
25 as Exhibit E, is a true and correct copy of one such email communication. However, the Receiver
26 has not made any payments to the Association as required by the Agreement.

27 14. With the Receiver Order in place, it is out of Mr. Malan's control to ensure that the
28 Association's obligations are paid in a timely manner.

1 15. On or about, October 30, 2018, Mr. Malan, San Diego United Holdings Group,
2 and Balboa Ave Cooperative, among other defendant entities subject to the Receiver Order,
3 appealed the Receiver Order. Attached to my declaration as Exhibit F is a true and correct copy of
4 the Notice of Appeal.

5 16. On or about December 14, 2018, Plaintiff submitted its ex parte Application for
6 Enforcement of Settlement and Entry of Stipulated Judgment in this matter. Attached to my
7 declaration as Exhibit G is a true and correct copy of Plaintiff's Application.

8 17. On or about December 17, 2018, the Court set appellate bond amounts for the
9 defendants, and defendant entities in the Razuki Litigation subject to the Receiver Order.
10 Attached to my declaration as Exhibit H is a true and correct copy of the Court's Minute Order.

11 18. The Receiver Order will be vacated upon the defendants posting appeal bonds to
12 stay enforcement of the Order while their appeal is pending. (Exhibit H).

13 19. Relief from the Receiver Order will return control of the Balboa Dispensary, and
14 its revenues, to San Diego United Holdings Group. It will also unburden the Balboa Dispensary
15 from paying the onerous costs of the Receiver and his counsel.

16 20. Without the Receivership in place, the Balboa Dispensary can once again prioritize
17 payment of the Association's expenses as it always did before the Receivership was ordered.

18 21. However, unless and until defendants to the Razuki Litigation post an appeal bond,
19 my clients have no control over their businesses and all fiduciary responsibility for ensuring my
20 clients perform is vested with the Receiver.

21 I declare under penalty of perjury under California state law that the foregoing is true and
22 correct. Executed in San Diego, California, on January 2, 2019.

23
24 

25 Gina Austin/ Tamara M. Leetham
26 Attorneys for Ninus Malan, San Diego
27 United Holdings Group, LLC, and Balboa
28 Ave Cooperative

EXHIBIT A

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11 CONDOMINIUM OWNERS ASSOCIATION

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Laura Melles, Deputy Clerk

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 MONTGOMERY FIELD BUSINESS
12 CONDOMINIUMS ASSOCIATION, a
13 California Nonprofit Mutual Benefit
14 Corporation,

15 Plaintiff,

16 v.

17 BALBOA AVE COOPERATIVE, a
18 California corporation; SAN DIEGO
19 UNITED HOLDINGS GROUP, LLC, a
20 California limited liability company; NINUS
21 MALAN, an individual; RAZUKI
22 INVESTMENTS, LLC, a California limited
23 liability company; SALAM RAZUKI, an
24 individual; and DOES 1 through 25,
25 inclusive,

26 Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

**COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES FOR BREACH OF
GOVERNING DOCUMENTS AND
NUISANCE**

27 Plaintiff alleges the following:

28 **PARTIES**

1. Plaintiff, MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, (hereinafter "**Association**") is, and at all times mentioned herein was, a California nonprofit mutual benefit corporation, organized and existing under the laws of the State of California, with its principal place of business in the City of San Diego, County of San Diego, State of California.

1 2. Plaintiff is and was an “association,” as presently defined in Civil Code section
2 628 which was created for the purpose of managing a “Commercial or Industrial Common
3 Interest Development,” as defined in Civil Code section 6531 and a “Condominium Project” as
4 defined in Civil Code section 6542, which consists of certain commercial real property,
5 including 62 office and industrial units, located in the City of San Diego, within the County of
6 San Diego, State of California (hereinafter “**Property**” or “**Project**”). The Association’s
7 members are owners of all of the office and industrial units within the Project.

8 3. Association is informed and believes, and thereon alleges, that Defendant
9 BALBOA AVE COOPERATIVE (hereinafter “**Balboa Ave Coop**”), is and was a California
10 corporation organized under the laws of the State of California and under the California
11 Consumer Cooperative Corporation Law and is operating its business within the Association,
12 located in the City of San Diego, State of California. The Association is informed and believes
13 and thereon alleges that the Balboa Ave Coop is a lessee, tenant, occupant, or guest of the
14 other Defendants and it operates its marijuana dispensary, collective, or cooperative from one
15 or two units within the Association as further described and defined herein as the “Units.”

16 4. Association is informed and believes, and thereon alleges, that Defendant SAN
17 DIEGO UNITED HOLDINGS GROUP, LLC (hereinafter “**SD United**”) is and was a limited
18 liability company organized under the laws of the State of California. SD United conducts
19 business in the City of San Diego, State of California, and at all times mentioned herein, is and
20 was the owner of two units (from March 20, 2017 through the present date) within the
21 Association, located at and commonly known as 8863 Balboa Avenue #E, San Diego,
22 California 92123 (hereinafter “**Unit #1**”) and 8861 Balboa Avenue, Suite B, San Diego,
23 California 92123 (hereinafter “**Unit #2**”). Unit #1 and Unit #2 are collectively referred to
24 herein as the “**Units**.” SD United does business as and is the alter ego of Defendant, BALBOA
25 AVE COOPERATIVE.

26 5. Association is informed and believes, and thereon alleges, that Defendant
27 NINUS MALAN (hereinafter “**Malan**”) is and was an individual residing in the County of San
28 Diego, State of California, and is the alter ego of and owner officer, principal, partner,

1 member, employee and/or agent of Balboa Ave Coop and SD United, as well as the Chief
2 Executive Officer and, based on information and belief, is and was the member and single
3 manager of SD United.

4 6. Association is informed and believes, and thereon alleges, that Defendant
5 RAZUKI INVESTMENTS, LLC (hereinafter "**Razuki Investments**") is and was a limited
6 liability company organized under the laws of the State of California. Razuki Investments
7 conducts business in the City of San Diego, State of California, and at times mentioned herein,
8 is and was the owner of the Units from October 16, 2016 through March 19, 2017 and is the
9 alter ego of and owner, officer, principal, partner, member, employee and/or agent of Balboa
10 Ave Coop.

11 7. Association is informed and believes, and thereon alleges, that Defendant
12 SALAM RAZUKI (hereinafter "**Razuki**") is and was an individual residing in the County of
13 San Diego, State of California, and is the alter ego of and owner, officer, principal, partner,
14 member, employee and/or agent of Balboa Ave Coop. Furthermore, the Association is further
15 informed and believes, and thereon alleges, that Razuki is a member and single manager of
16 Razuki Investments. Razuki also holds himself out as the owner and/or operator of Balboa Ave
17 Coop.

18 8. Association is informed and believes, and thereon alleges, that the Defendants
19 created a number of corporate entities that all share series of characteristics that define them all
20 as alter egos of Balboa Ave Coop, as they were formed to avoid debts and obligations. The
21 Association is further informed and believes, and thereon alleges, that Defendant entities SD
22 United and Razuki Investments have ownership interests in Balboa Ave Coop. The
23 Association is further informed and believes, and thereon alleges, that the individual
24 Defendants, Malan and Razuki are owners, officers, principals, partner, members, employees
25 and/or agents of Balboa Ave Coop, Razuki Investments, and SD United.

26 9. Plaintiff is informed and believes, and thereon alleges, that there exists, and at
27 all relevant times mentioned herein, there existed a unity of interest and ownership between
28 and among Balboa Ave Coop, SD United, Malan, Razuki Investments, and Razuki such that

1 any individuality and separateness between them has ceased, and all of these Defendants are
2 the alter egos of each other.

3 10. The true names and capacities, whether individual, corporate, associate or
4 otherwise, of Defendants sued herein under Code of Civil Procedure section 474 as DOES 1
5 through 25 are unknown to Association, who therefore sues said Defendants by such fictitious
6 names. Association will seek leave of court to amend its pleadings to set forth the true names
7 and capacities of such fictitiously named Defendants when their identities become known to
8 Association.

9 11. Association is informed and believes, and thereon alleges that each of the
10 fictitiously named Defendants are responsible in some manner for the events and happenings
11 herein referred to, and proximately caused the injury and damages to Association as herein
12 alleged.

13 12. Association is informed and believes, and thereon alleges, that at all times herein
14 mentioned, each of the Defendants herein was the alter ego, agent, servant, representative,
15 officer, manager, member, and/or employee of each of the remaining Defendants, and was acting
16 within the scope and purpose of such agency, service and/or employment.

17 JURISDICTION AND VENUE

18 13. San Diego County Superior Court, Central Division is the proper venue to
19 enforce the restrictive covenants and equitable servitudes in the above-captioned matter because
20 it is the county in which the property subject to the restrictive covenants and equitable servitudes
21 (pursuant to the Association's recorded CC&Rs) is located. Furthermore, the conduct that is in
22 violation of the CC&Rs was committed within the City of San Diego, State of California, and
23 the real property at issue are located in the City of San Diego, State of California.

24 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

25 Ownership of the Units

26 14. SD United is the current record owner of the Units located within the
27 Association. SD United took title to the Units by way of a Grant Deed recorded on March 20,
28

1 2017 in the San Diego County Recorder's Office as Document No. 2017-0126556, a true and
2 correct copy of which is attached hereto as **Exhibit A** and is incorporated herein by reference.

3 15. The Units are encumbered by a Deed of Trust and Assignment of Rents in favor
4 of Defendant, Razuki Investments, beneficiary, recorded on March 20, 2017, in the San Diego
5 County Recorder's Office as Document No. 2017-0126557, a true and correct copy of which is
6 attached hereto as **Exhibit B** and is incorporated herein by reference. Prior to ownership of the
7 Units by SD United, Razuki Investments was the owner of the Units from October 18, 2016
8 through March 19, 2017. (A true and correct copy of the Grant Deed to Razuki Investments,
9 LLC recorded on October 16, 2016, in the San Diego County Recorder's Office as Document
10 No. 2016-0559367 is attached hereto as **Exhibit C** and is incorporated herein by reference.)

11 **Governing Documents and the Association's Right and Authority to Enforce**

12 16. The Association's Project and its units are subject to the terms and conditions
13 of various covenants, conditions, restrictions, rights, reservations, easements, equitable
14 servitudes, liens and charges set forth in the Association's "governing documents," as defined
15 in Civil Code section 6552, which include, among other things, the following: (a) "Bylaws of
16 Montgomery Field Business Condominiums Association" ("**Bylaws**") dated August 18, 1981,
17 a true and correct copy of which is attached herewith as **Exhibit D** and is incorporated herein
18 by reference; (b) "Declaration of Covenants, Conditions and Restrictions for Montgomery Field
19 Business Condominiums" ("**CC&Rs**") recorded on July 31, 1981 as Document No. 1981-
20 242889 in the San Diego County Recorder's Office, a true and correct copy of which is
21 attached hereto as **Exhibit E** and is incorporated herein by reference; (c) the First Amendment
22 to Declaration recorded September 14, 1989 as Documents 1989-495903 in the San Diego
23 County Recorder's Office ("**First Amendment**"), a true and correct copy of which is attached
24 herewith as **Exhibit F** and is incorporated herein by reference; (d) the Second Amendment to
25 Declaration recorded on August 24, 1999 as Document Number 1999-0582901 in the San
26 Diego County Recorder's Office ("**Second Amendment**"), a true and correct copy of which is
27 attached herewith as **Exhibit G** and is incorporated herein by this reference; and (e) the 2015
28 Amendment to Declaration recorded on March 2, 2015 as Document Number 2015-0093872

1 in the San Diego Recorder's Office ("2015 Amendment"), a true and correct copy of which is
2 attached hereto as **Exhibit H** and incorporated herein by reference. The Bylaws and CC&Rs,
3 and its amendments attached herewith as Exhibits A through H are sometimes collectively
4 referred to herein as the "**Governing Documents.**"

5 17. The Governing Documents touch and concern the entire condominium project
6 and run with the land. The Governing Documents are binding on all parties having any right,
7 title or interest in any property within the Association, as if they had personally executed it. The
8 Governing Documents are also binding on all lessees of any units within the Association's
9 Project.

10 18. The aforementioned CC&Rs and its amendments were executed and recorded for
11 the benefit of the members of Association, to enhance and protect the value, desirability and
12 attractiveness of the Association, to provide architectural control, and to enforce the governing
13 documents of the Association. (Ex. E, CC&Rs, Preamble, Secs. D, E, Art. IV, Sec. 1, pg. 20.)
14 All amendments to the CC&Rs, including the 2015 Amendment, were executed, recorded, are
15 reasonable, and made part of the Governing Documents of the Association in accordance with,
16 in compliance with, and pursuant to applicable law and the Association's Governing Documents.

17 19. The Governing Documents create and establish the Association as the
18 governing body for the management, administration, and operation of the Association. Civil
19 Code section 6856(a) states in relevant part, "The covenants and restrictions in the declaration
20 shall be enforceable equitable servitudes, unless unreasonable, and shall inure to the benefit of
21 and bind all owners of separate interests in the development..." (Cal. Civ. Code § 6856(a).)
22 The equitable servitudes doctrine is also set forth on page 2 of the CC&Rs. Pages 8 and 11 of
23 the CC&Rs require owners to follow the covenants, conditions and restrictions set forth in the
24 CC&Rs. (Ex. E, CC&Rs, Art. II, Sec. 2, pg. 8; Art. II, Sec. 8. pg. 11.)

25 20. The Association's CC&Rs are entitled to a presumption of reasonableness.
26 (*Nahrstedt v. Lakeside Village Condominium Association* (1994) 8 Cal.4th 361, 380.) The
27 CC&Rs, including the 2015 Amendment to the CC&Rs, are enforceable equitable servitudes
28 that run with the land, which are permitted to be more restrictive than public zoning laws and

1 public zoning decisions. (*Mullaly v. Ojai Hotel Co.* (1968) 266 Cal.App.2d 9.)

2 21. The operation and maintenance of a marijuana dispensary, collective, or
3 cooperative is not a permitted use of the Units and is strictly prohibited within the Association
4 and within any unit subject to the restrictive covenants and equitable servitudes of the Governing
5 Documents of the Association as further set forth herein.¹ Defendants are in breach of
6 Association's Governing Documents by the following: (i) operating a marijuana dispensary,
7 collective or cooperative which includes the consumption, cultivation, manufacture, possession,
8 processing, sale and/or distribution of marijuana within the Units, among other marijuana
9 activity; (ii) failing to obtain written approval by a majority of the Board of Directors of the
10 Association prior to obtaining a use variance from the City of San Diego; (iii) occupying or
11 using the Units for a high hazard purpose or manner resulting in a high likelihood of uninsurable
12 losses to the Association or resulting in the Association's insurance policies from being
13 cancelled or not renewed; and (iv) making alterations or modifications of the Association's
14 common areas without prior approval of the Board of Directors.

15 22. Association, through its Board of Directors, is entitled to enforce the Governing
16 Documents pursuant to Civil Code section 6856, Article IX of the Bylaws, and Article IV
17 Section 1 of the CC&Rs. (Ex. E, CC&Rs, Art. IV, Sec. 1, pg. 20; Ex. C, Bylaws, Art. IX, pg.
18 10.) To illustrate, the CC&Rs provide the following:

19 All powers relating to the management, operations and
20 maintenance of the Project and of the Common Area, as well as
21 certain rights, duties and powers relating to the individual Units,
22 as hereinafter set forth, shall be vested in the Association and in
23 its Board. The specific and primary purposes and powers of the
24 Association and its Board are to provide architectural control of
25 the Property, manage the Project, and the Common Area, and to
26 enforce the provision of this Declaration and the Association's
27 Articles and By-Laws, and any other instruments relating to the
28 management and control of the Association and the Property.

(Ex. E, CC&Rs, Art. IV, Sec. 1 pg. 20.) The Bylaws provide similarly:

¹ A "restriction" on real property is defined as a "limitation on, or provision affecting, the use of real property in a deed, declaration, or other instrument, whether in the form of a covenant, equitable servitude, condition subsequent, negative easement, or other form of restriction." (Cal. Civ. Code §784.) The "covenants and restrictions in the [CC&RS] shall be enforceable equitable servitudes..." (C.C. § 6856(a).)

1 The Board shall have the power and authority to enforce the
2 provisions of the Declaration, these Bylaws and any rules and
3 regulations promulgated by the Board...In the event the Board
4 commences any legal action to enforce any provisions of the
Declaration, these Bylaws or any rules and regulations, the
Association shall be entitled to reasonable attorneys' fees and
court costs.

5 (Ex. D, Bylaws, Art. IX, pg. 10.) Furthermore, the CC&Rs permit the Association to file a
6 lawsuit to enforce the governing documents and to seek injunctive relief. (Ex. E, CC&Rs, Art.
7 XIV, Sec. 1, pg. 51.) Should injunctive relief not be granted by the court, the Governing
8 Documents of the Association and the ability of associations to govern and restrict uses within
9 an association become meaningless or extremely difficult to enforce for a nonprofit
10 corporation, and the owners will be left unprotected from the direct and indirect negative
11 effects associated with reasonable, unpermitted, and incompatible uses within their
12 Association. Absent injunctive relief, the Association will be irreparably harmed and the
13 ongoing violations will continue to harm the owners of the Association and the Association
14 itself.

15 23. Article II, Section 8 of the CC&Rs provide that each owner of a unit within the
16 Association "shall be obligated to promptly fully and faithfully comply with and confirm to each
17 and every term and provision of the ... By-Laws of the Association and comply with and
18 confirm to each and every rule and regulation promulgated by the Board." (Ex. E, CC&Rs, Art.
19 II, Sec. 8, pg. 11.) The CC&Rs further require that all leases for any units within the
20 Association "shall be subject in all respects to and that the lessee shall abide by the provisions
21 of [the CC&Rs], the By-Laws of the Association..." and "any failure by the lessee of such
22 Unit to comply with the terms of [the CC&Rs including the 2015 Amendment] shall constitute
23 a default under the lease." (Ex. E, Art. VI, Sec. 10, pg. 31.) The Association is informed and
24 believes that Balboa Ave Coop is a lessee who is obligated to comply with the terms of the
25 Bylaws and CC&Rs.

26 24. The Association is obligated by the CC&Rs to maintain insurance coverage for
27 the benefit of the Association's Property and the Owners. The CC&Rs require that the
28 Association "maintain such policy or policies of insurance ... together with such other types of

1 insurance as the Association determines is in the best interest of the Association and its
2 Members.” (Ex. E, CC&Rs, Art. IV, Sec. 2, pgs. 21-22.) Currently, and at all relevant times, the
3 Association maintains several types of insurance coverage through Farmers and possibly other
4 insurers in compliance with and consistent with the Governing Documents. The Association is
5 informed and believes and thereon alleges that it will not have any insurance coverage for any
6 claims related to or associated with the Defendants’ operation of a marijuana dispensary,
7 collective or cooperative within the Association, which the Association’s insurance company
8 categorizes as high-hazard.

9 25. Although not required by law or the Governing Documents of the Association,
10 on April 26, 2017, the Association and Defendants participated in confidential mediation prior
11 to filing this lawsuit in an attempt to resolve this dispute, to no avail.

12 **FIRST CAUSE OF ACTION**

13 **Breach of the Governing Documents**

14 **(Against all Defendants)**

15 26. Association restates and realleges Paragraphs 1 through 25 above, and
16 incorporates the same by reference as though fully set forth herein.

17 27. As set forth herein above, the Association has the power and authority pursuant
18 to the Bylaws and the CC&Rs to which the Defendants are bound to enforce its terms.

19 **Prohibited Marijuana Dispensary**

20 28. Defendants are in breach of Article VI, Section 20, as set forth in the 2015
21 Amendment of the CC&Rs, which prohibits the consumption, cultivation, manufacture,
22 possession, processing, sale and/or distribution of marijuana and/or cannabis-related or
23 cannabis-containing products and/or the operation of a medical marijuana collective, a medical
24 marijuana cooperative, or a medical marijuana dispensary within the Association including
25 within the Units. (Ex. H, 2015 Amendment to CC&Rs, pg. 2.) Specifically, Defendants
26 breached the CC&Rs by the engaging in the following prohibited conduct: Beginning on or
27 about February 1, 2017 or as late of early April 2017 and continuing to the present date,
28 Defendants and/or their employees, agents, guests, lessees, tenants, representatives, officers,

1 directors, owners, successors and/or assigns began the prohibited use of the Units as a
2 marijuana dispensary, collective, or cooperative which includes the consumption, cultivation,
3 manufacture, possession, sale and/or distribution of marijuana and/or cannabis-related or
4 cannabis-containing products within the Association.

5 **Failure to Obtain Written Approval from Majority of the Board of Directors**

6 29. Defendants are in breach of Article VI Section 1 of the CC&Rs, which require
7 written approval from a majority of the Board of Directors prior to an owner of a unit seeking
8 a use variance with the City of San Diego in order for such use to be permitted under the
9 CC&Rs. (Ex. E, Art. VI, Sec. 1, pg. 27.) Specifically, prior to February 1, 2017, and no earlier
10 than June 1, 2015, Defendants, their employees, agents, guests, lessees, tenants, representatives,
11 officers, directors, owners, successors and/or assigns, sought and/or obtained a use variance or
12 conditional use permit from the City of San Diego without prior written approval from the
13 Board of Directors of the Association, which is a breach of Article VI, Section 1 of the
14 CC&Rs, making the current use of the Units by the Defendants a further breach of the
15 CC&Rs.

16 **Prohibited Use Causing Uninsurable Losses or Adverse Action by Insurers**

17 30. Defendants are in breach of Article VI, Section 12 of the CC&Rs, which
18 provides the following:

19 No Unit or improvements situated thereon shall be occupied or
20 used for any purpose or in any manner which shall cause
21 improvements to be uninsurable against any loss by fire or the
22 perils of the extended coverage endorsement of the California
23 Standard Fire Policy from or cause any policy or policies
24 representing such insurance to be canceled or suspended or the
25 company issuing the same to refuse the renewal thereof, or cause
26 the premiums for such insurance to be increased.

27 (Ex. E, Art. VI, Sec. 12, pg. 31.)

28 31. Specifically, as a result of the Defendants' occupancy of and use of the Units for
the purpose of a marijuana dispensary, collective, or cooperative, the Association's property,
improvements or other insureds are uninsurable against any loss related to or arising out of the
Defendants' marijuana dispensary, collective, or cooperative business. Furthermore, the

1 Association is informed and believes and thereon alleges that its policy of insurance may be
2 cancelled, suspended, will not be renewed as a result of the Defendants' operation and use of the
3 Units for a marijuana dispensary, collective, or cooperative, which, in turn, prohibit the
4 Defendants from occupying or using the Units for the purposes of a marijuana dispensary,
5 collective, or cooperative.

6 **Prohibited Alterations**

7 31. Defendants are in breach of Article VI, Section 5 of the CC&Rs which prohibit
8 an owner from destroying "any part of the Common Areas and no Common Area wall in the
9 Project shall be pierced or otherwise altered in any way without the prior written approval of
10 the Board." (Ex. D, Art. VI, Sec. 5, pg. 29.) In the CC&Rs, "Common Area" or "Common
11 Areas" include all areas of the Association's property including the exterior walls, walkways,
12 the property outside the structure, parking lots and parking areas, and all other structures or
13 provisions within the Project. (Ex. D, CC&Rs, Art. I, Sec. 7, pg. 5.) Defendants are also in
14 breach of Article VI, Section 17 of the CC&Rs, which provides, "No Owner shall have the
15 right to improve decorate, remodel, alter, landscape or adorn the Common Are without the
16 written consent of the Board." (Ex. D, CC&Rs, Art. VI, Sec. 17, pg. 33.)

17 32. Specifically, on or about May 1, 2017 and through May 5, 2017, Defendants
18 altered or modified the common area entrance into the Association's property without prior
19 approval from the Association's Board of Directors in violation of Art. VI, Sections 5 and 17
20 of the CC&Rs (hereinafter, "Driveway Alterations"). From approximately April 1, 2017
21 through May 1, 2017, Defendants altered and modified the exterior common area walls by
22 installing a complex security camera system with multiple security cameras on the exterior
23 common area walls of the Association's property without the approval of the Association's
24 Board of Directors in violation of the CC&Rs (hereinafter, "Exterior Wall Alterations")².
25 Defendants' construction, alteration, installation, and destruction of the common areas caused
26 and will continue to cause damage to the Association's building and the common area

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28 ² The Driveway Alterations and Exterior Wall Alterations shall be collectively referred to
herein as the "Alterations."

1 driveway that was modified. At no time did Defendants submit an application to the Board of
2 Directors of the Association for approval before commencing the Alterations. At no time did
3 the Board of Directors of the Association approve Defendants' Alterations. Accordingly,
4 Defendants, and each of them, are in breach of the Association's CC&Rs for making the
5 Alterations. This conduct has proximately caused damages to the Association in an amount to
6 be determined at the time of trial and which exceed \$2,000.

7 33. Violation of the covenants and restrictions contained in the Governing
8 Documents by the Defendants as described herein damaged and continue to damage Association
9 in a manner that cannot now be estimated in terms of monetary compensation, and Association
10 therefore has no adequate remedy at law. Continued flagrant violations of the Governing
11 Documents will result in an equitable erosion of the covenants and restrictions contained therein,
12 and will permanently and irrevocably damage Association and undermine its authority.

13 34. The Association did all, or substantially all, of the significant things that the
14 Governing Documents required it to do.

15 35. Because Association has no adequate remedy at law, Defendants, and each of
16 them, and their heirs, assigns and successors in interest, should be enjoined, preliminarily and
17 permanently, from operating the marijuana dispensary, collective, or cooperative and
18 maintaining the property in violation of the Governing Documents, and should be further
19 ordered to comply with the terms of the Governing Documents, as mentioned above, including,
20 without limitation, enjoining and prohibiting Defendants, and their employees, agents, guests,
21 lessees, tenants, representatives, officers, directors, owners, successors and/or assigns from the
22 following conduct:

- 23 (a) Any and all marijuana activity including the consumption, cultivation,
24 manufacture, possession, processing, sale and/or distribution of marijuana
25 and/or cannabis-related or cannabis-containing products and/or the operation
26 of a medical marijuana dispensary, collective, or cooperative within the
27 Units and within the Association including the common areas and from any
28 office or industrial unit within the Association;

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(b) Any and all advertising, in any manner, including on the Internet and all internet-based applications, the existence of any commercial, retail, collective, cooperative, or group established for the consumption, cultivation, manufacture, possession, sale, and/or distribution of marijuana, including any marijuana dispensary, collective, or cooperative at the Units and/or within the Association; and

(c) Any and all further modifications, improvements or destruction of the Association's property and/or common areas without prior written Board approval and require Defendants to submit plans along with a written application for the Alterations that have already been performed by Defendants including the Driveway Alterations and Exterior Wall Alterations.

36. As a proximate result of Defendants' breach of the Governing Documents, Association has incurred, and will continue to incur, attorneys' fees, costs and expenses in connection with the enforcement of the Governing Documents and Defendants' violation thereof, all of which shall be established in an amount according to proof at trial. Association is entitled to recover its fees and costs pursuant to Article XIV, Section 1 of the CC&Rs, Article IX of the Bylaws, and Civil Code section 1717.

SECOND CAUSE OF ACTION

Nuisance

(Against all Defendants)

37. Association restates and realleges Paragraphs 1 through 36 above, and incorporates the same by reference as though fully set forth herein.

38. Article XIV, Section 7 of the CC&Rs provides, in part:

The result of every act or omission whereby any restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an owner, either public or private, shall be applicable against every such result and may be exercised by the approving agent or by any Owner of property subject to these restrictions.

1 (Ex. E, CC&Rs, Art. XIV, Sec. 7, pg. 54.)

2 39. As a result of Defendants' conducted mentioned in the first cause of action which
3 are violations of the Governing Documents as set forth herein, Defendants conduct constitutes a
4 nuisance. Defendants' continued marijuana activity within the Association and from within the
5 Units, and performing the Driveway Alterations and Exterior Wall Alterations without Board
6 approval and in violation of the Governing Documents, is offensive and harmful to the
7 Association and its members and owners, and this conduct is interfering with the Association's
8 ability to govern and control the use, occupancy and enjoyment of the Association's Property.
9 This harmful and wrongful conduct is also interfering with the Association's owners' use or
10 enjoyment of their individual units and common areas of the Association. The ongoing
11 violations of the Governing Documents by Defendants, including the operation of the marijuana
12 dispensary, collective, or cooperative are a continuing nuisance that interferes with the value,
13 desirability and tranquility of the Association, and interferes with the peace and enjoyment of the
14 other owners within the Association.

15 40. The Association and the other owners within the Association did not consent to
16 Defendants' operation of the marijuana dispensary, collective, or cooperative, nor did the
17 Association consent to the Defendants' alterations to the common areas of the Association,
18 which interfered with the business of the Association's owners. The Association, its owners, and
19 the owners' commercial tenants reasonably relied on the covenants and restrictions set forth in
20 the CC&Rs, which requires owners and their lessees to comply with the Governing Documents
21 of the Association. The continued flagrant violation of the Governing Documents by Defendants
22 will result in an equitable erosion of the covenants contained therein, and will permanently and
23 irrevocably damage the Association and undermine its authority. Accordingly, Defendants'
24 continuing violation has damaged and continues to damage the Association in a manner that
25 cannot now be estimated in terms of monetary compensation. As such, the Association therefore
26 has no adequate remedy at law.

27 41. As a result, any ordinary person or a board of directors and owners within an
28 association would be reasonably annoyed by Defendants' violations.

1 42. There is no public benefit to Defendants' failure to comply with the Governing
2 Documents. Defendants' violations result in harm to every owner and lessee within the
3 Association, and Defendants should be required to remedy these violations, as set forth in
4 paragraph 1 of the prayer below, in order to abate the nuisance.

5 43. Association requests the cost of any abatement related to the unauthorized
6 modifications ordered by this court shall be awarded as damages against Defendants in an
7 amount to exceed \$2,000.

8 44. Any order entered by this court, granting Association the right to abate the
9 nuisance, should not obviate Defendants' requirement to comply with a duly entered order of
10 this court to cure the violations.

11 45. As a proximate result of Defendants' breach of the Governing Documents,
12 Association has incurred, and will continue to incur, attorneys' fees, costs, and expenses in
13 connection with the enforcement of the Governing Documents and Defendants' violations
14 thereof, all of which shall be established in an amount according to proof at trial. Association is
15 entitled to recover its fees and costs pursuant to Article XIV, Section 1 of the CC&Rs, Article IX
16 of the Bylaws, and Civil Code section 1717.

17 **PRAYER**

18 WHEREFORE, Plaintiff Montgomery Field Business Condominiums Association prays
19 judgment against Defendants, and each of them, as follows:

20 1. For a preliminary and permanent injunction against Defendants, and their
21 employees, agents, guests, lessees, tenants, representatives, officers, directors, owners,
22 successors and/or assigns, as follows:

23 (a) Enjoining and prohibiting any and all marijuana activity including the
24 consumption, cultivation, manufacture, possession, processing, sale and/or distribution of
25 marijuana and/or cannabis-related or cannabis-containing products and/or the operation of a
26 medical marijuana dispensary, collective, or cooperative within the Units and within the
27 Association including the common areas and from any office or industrial unit within the
28 Association; and

1 (b) Enjoining and prohibiting any and all advertising, in any manner,
2 including on the Internet and all internet-based applications, the existence of any commercial,
3 retail, collective, cooperative, or group established for the cultivation, manufacture, possession,
4 sale, and/or distribution of marijuana, including any marijuana dispensary, collective, or
5 cooperative at the Units and/or within the Association.

6 (c) Enjoining and prohibiting any further modifications, improvements or
7 destruction of the Association's property and/or common areas without prior written Board
8 approval and requiring Defendants to submit plans and written application(s) for Board review
9 for any alterations or improvements performed by Defendants including but not limited to the
10 Driveway Alterations and Exterior Wall Alterations made by Defendants.

11 2. For an order granting Association to recover the costs of abatement or,
12 alternatively, correction of the Alterations in an amount to exceed \$2,000, as a part of the
13 monetary judgment entered herein, upon application to the Court pursuant to a memorandum of
14 costs after judgment;

15 3. For an order directing Defendants and their employees, agents, guests, lessees,
16 tenants, representatives, officers, directors, owners, successors and/or assigns to comply with all
17 provisions of the Governing Documents of the Association;

18 4. For costs of suit and litigation expenses incurred herein;

19 5. For reasonable attorneys' fees incurred herein, pursuant to Article XIV, Section 1
20 of the CC&Rs, Article IX of the Bylaws, and Civil Code section 1717; and

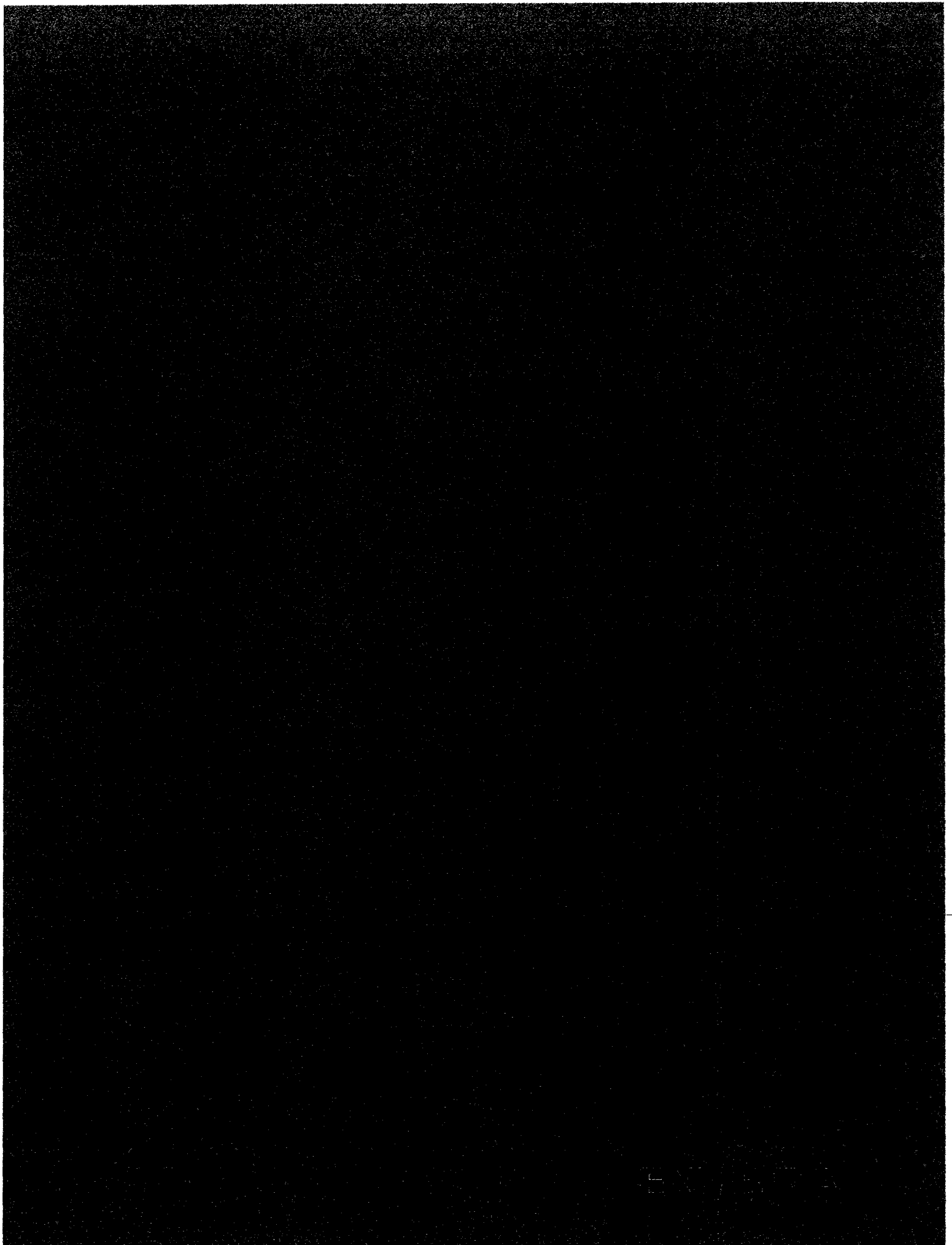
21 6. For such other and further relief as the Court may deem just and proper.

22
23 Dated: May 26, 2017

EPSTEN GRINNELL & HOWELL, APC

24
25 By: 

26 Ryan W. Jones
27 Mandy D. Hexom
28 Attorneys for Plaintiff
MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION



Recording requested by

THK365

DOC# 2017-0126556



Mar 20, 2017 04:59 PM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$323.50

PCOR: YES

PAGES: 3

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

Name
Street San Diego United Holdings Group, LLC
Address 7977 Broadway Avenue
City Lemon Grove, CA 91954
State
Zip

RECORDERS USE ONLY

ORDER NO. 410-17001140-42

ESCROW NO. 145318S-CG

GRANT DEED

TAX PARCEL NO. 369-150-13-23 and 369-150-13-15

The undersigned grantor declares that the documentary transfer tax is \$302.50 and is computed on the full value of the interest of the property conveyed, or is

X computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale.

The land, tenements or realty is located in

unincorporated area X city San Diego and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Razuki Investments, LLC, a California Limited Liability Company hereby GRANT(S) to

San Diego United Holdings Group, LLC, a California Limited Liability Company

The following described real property in the City of San Diego, County of San Diego, State of California: AS MORE COMPLETELY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Dated 03/01/2017

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA,)
COUNTY OF San Diego)

On March 2, 2017 before me,
Yancy Diandra Fuentes, Notary Public
personally appeared Salam Razuki

Razuki Investments, LLC, a California Limited Liability Company,

By: Salam Razuki, Member

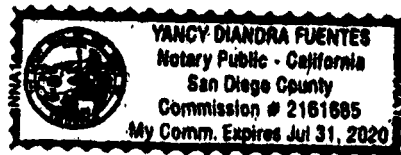
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Yancy Diandra Fuentes, Notary Public

(Notary Seal)



MAIL TAX STATEMENTS TO PARTY SHOWN BELOW: IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE.

ATTN: Dionis Malan 5065 Logan Ave. Suite 101, San Diego CA 92113

Name

Street Address

City & State

NOTARY SEAL CERTIFICATION

(Government code 27361.7)

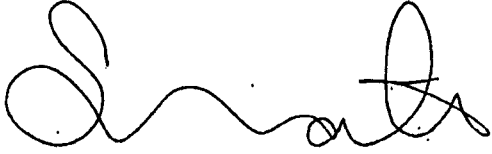
I CERTIFY UNDER PENALTY OR PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

Name of the Notary: Yancy Diandra Fuentes

Commission Number: 2101085 Date Commission Expires: Jul 31, 2020

County Where Bond is Filed: San Diego

Manufacturer or Vendor Number: NNA1
(Located on both sides of the notary seal border)

Signature: 

Ariana Serrato, DPS Agent

Place of Execution: San Diego Date: 3-9-17

EXHIBIT A
Legal Description

Parcel 1:

The land hereinafter referred to is situated in the City of San Diego, County of San Diego, State of CA, and is described as follows:

A Condominium Comprised of:

Parcel 1:

An undivided 1/46th interest in and to the Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 of the City of San Diego Industrial Park Unit No.2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

Excepting therefrom all office units and industrial units as shown upon that certain Condominium Plan recorded July 31, 1981 as File/Page No. 81-242888 of official records.

Also excepting therefrom the exclusive right to use and possession of all those exclusive use areas designated as parking spaces as shown upon the Condominium Plan above referred to.

Parcel 2:

Unit No. 8863E as shown on the Condominium Plan referred to in Parcel 1 above.

Parcel 3:

The exclusive right to use and possession of those portions of said land described in Parcel 1 above, designated as Parking Space Nos. E-32 and E-31.

APN: 369-150-13-23

Parcel 2:

The land hereinafter referred to is situated in the City of San Diego, County of San Diego, State of CA, and is described as follows:

A Condominium comprised of:

Parcel 1:

An undivided 1/46ths interest in and to the Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 in the City of San Diego Industrial Park Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

Excepting therefrom all office units and industrial units as shown upon that certain Condominium Plan recorded July 31, 1981 as Instrument No. 81-242888, of Official Records.

Also excepting therefrom the exclusive right to use and possession of all those exclusive use areas designated as parking spaces and airplane parking spaces as shown upon the Condominium Plan above referred to.

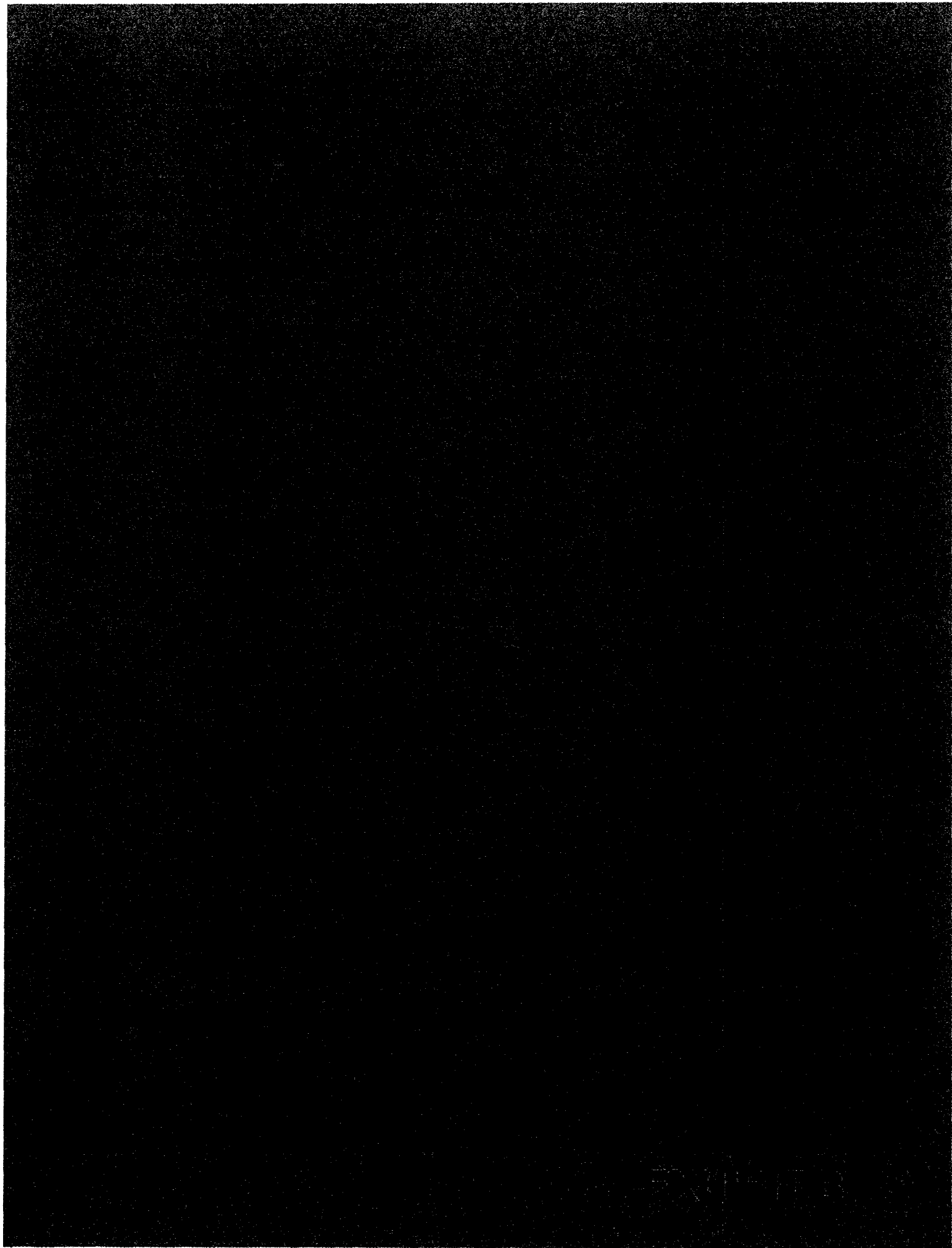
Parcel 2:

Unit 8861B as shown on the Condominium Plan referred to in Parcel 1 above.

Parcel 3:

The exclusive right to use and possession of those portions of said land described in Parcel 1 above, designated as Parking Space No. B48, B47, Airplane Parking Space No. (None).

APN: 369-150-13-15



RECORDING REQUESTED BY
TITLE365

DOC# 2017-0126557



ESCROW NO.: 146318S-CG
LOAN NO.:

Mar 20, 2017 04:59 PM
OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$42.00
PCOR: N/A

WHEN RECORDED MAIL TO:

Razuki Investments, LLC
7977 Broadway Avenue
Lemon Grove, CA 91954

PAGES: 5

17001140-42

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST WITH ASSIGNMENT OF RENTS

(SHORT FORM)

This Deed of Trust, made this 1st day of March, 2017, between
San Diego United Holdings Group, LLC, a California Limited Liability Company herein called TRUSTOR
whose address is, 8863 Balboa Avenue, Unit E San Diego, CA 92123 and 8861 Balboa Avenue, Unit B San,
(number and street) (city) (state) (zip)

ALLISON-McCLOSKEY ESCROW COMPANY, a California Corporation, herein called TRUSTEE, and
Razuki Investments, LLC, a California Limited Liability Company herein called BENEFICIARY,

Witnesseth: That Trustor grants to Trustee in trust, with power of sale, that property in the City of San Diego of San Diego County, State of California, described as:

AS MORE COMPLETELY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

This is a Purchase Price Deed of Trust and is given and accepted upon the express provision that should the property herein before described, or any part thereof, be conveyed by trustors, either voluntarily or by operation of law, without written consent of the beneficiary, then and in that event, all sums secured hereby, shall, at the option of the beneficiary, become immediately due and payable.

together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) payment of the sum of \$275,000.00 with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, (2) the performance of each agreement of Trustor incorporated by reference or contained herein and (3) payment of additional sums and interest hereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A of Fictitious Deed of Trust set forth below, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the Fictitious Deed of Trust recorded in San Diego County August 18, 1964 in the office of the county recorder of the county where said property is located, noted below, viz.:

COUNTY: San Diego

BOOK: Series 5 Book 1964

PAGE: 149774

shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties, and printed on page 2 hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by law.

Notwithstanding the provisions of the Fictitious Deeds of Trust referred to above, rate of interest referred to in Subdivision A, paragraph 5 and Subdivision B, paragraph 6 of the Fictitious Deeds of Trust shall be computed at the rate of interest shown in the Note secured by this Deed of Trust.

Signature of Trustor

San Diego United Holdings Group, LLC, a California
Limited Liability Company

By: 
Ninus Malan, Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA,)
COUNTY OF San Diego)

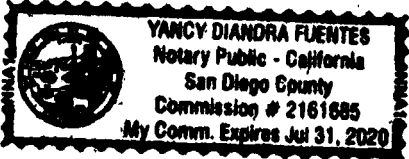
On March 3, 2017 before me,
Yancy Diandra Fuentes, Notary Public
personally appeared Nimus Malan

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Yancy Fuentes, Notary Public



(This area for official notarial seal)

NOTARY SEAL CERTIFICATION

(Government code 27361.7)

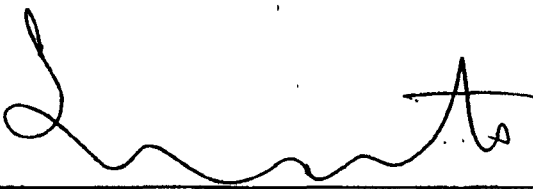
I CERTIFY UNDER PENALTY OR PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

Name of the Notary: Yancy Diandra Fuentes

Commission Number: 2161685 Date Commission Expires: Jul 31, 2020

County Where Bond is Filed: San Diego

Manufacturer or Vendor Number: NNA1
(Located on both sides of the notary seal border)

Signature: 

Ariana Serrato, DPS Agent

Place of Execution: San Diego Date: 3-9-17

DO NOT RECORD

The following is a copy of Subdivisions A and B of the fictitious Deed of Trust recorded in each county in California as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as it set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

- (1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereon; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
(2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
(4) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

- (5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

- (1) That any award of damages in connection with any condemnation for public use or of injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.
(3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

- (4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

- (5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

- (6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand upon Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement of the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

- (7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

- (8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

- (9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

DO NOT RECORD

REQUEST FOR FULL RECONVEYANCE

TO ALLISON-McCLOSKEY ESCROW COMPANY, TRUSTEE:

The undersigned is the legal owner and holder of the note or notes, and of all other indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust, have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note or notes above mentioned, and all other evidences of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated: _____

Please read Deed of Trust, Note and Reconveyance to: _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the TRUSTEE for cancellation before reconveyance will be made.

DEED OF TRUST with POWER OF SALE

ALLISON-McCLOSKEY ESCROW COMPANY, TRUSTEE

Page 2

EXHIBIT A
Legal Description

Parcel 1:

The land hereinafter referred to is situated in the City of San Diego, County of San Diego, State of CA, and is described as follows:

A Condominium Comprised of:

Parcel 1:

An undivided 1/46th interest in and to the Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 of the City of San Diego Industrial Park Unit No.2, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

Excepting therefrom all office units and industrial units as shown upon that certain Condominium Plan recorded July 31, 1981 as File/Page No. 81-242888 of official records.

Also excepting therefrom the exclusive right to use and possession of all those exclusive use areas designated as parking spaces as shown upon the Condominium Plan above referred to.

Parcel 2:

Unit No. 8863E as shown on the Condominium Plan referred to in Parcel 1 above.

Parcel 3:

The exclusive right to use and possession of those portions of said land described in Parcel 1 above, designated as Parking Space Nos. E-32 and E-31.

APN: 369-150-13-23

Parcel 2:

The land hereinafter referred to is situated in the City of San Diego, County of San Diego, State of CA, and is described as follows:

A Condominium comprised of:

Parcel 1:

An undivided 1/46ths interest in and to the Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 in the City of San Diego Industrial Park Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

Excepting therefrom all office units and industrial units as shown upon that certain Condominium Plan recorded July 31, 1981 as Instrument No. 81-242888, of Official Records.

Also excepting therefrom the exclusive right to use and possession of all those exclusive use areas designated as parking spaces and airplane parking spaces as shown upon the Condominium Plan above referred to.

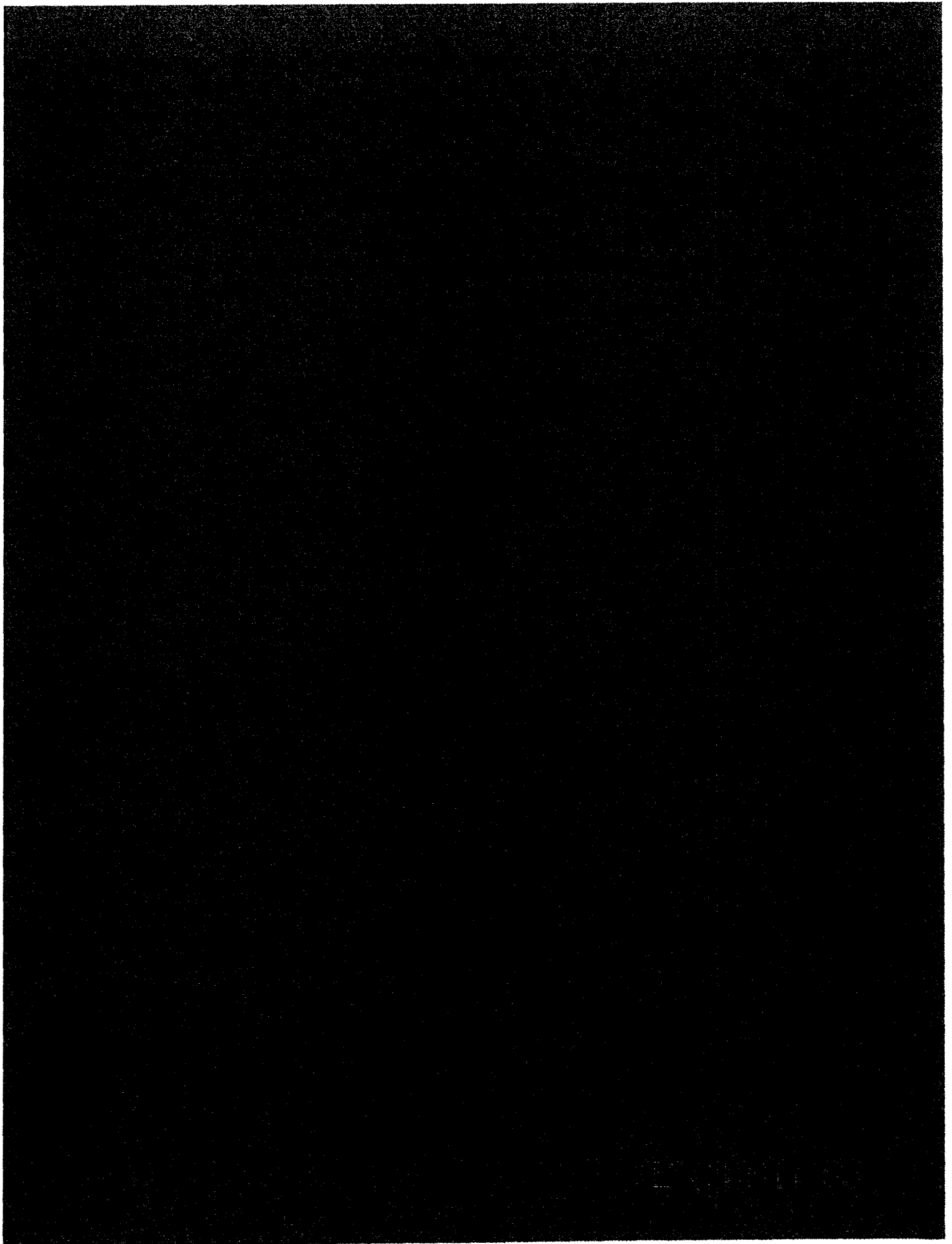
Parcel 2:

Unit 8861B as shown on the Condominium Plan referred to in Parcel 1 above.

Parcel 3:

The exclusive right to use and possession of those portions of said land described in Parcel 1 above, designated as Parking Space No. B48, B47, Airplane Parking Space No. (None).

APN: 369-150-13-15



RECORDING REQUESTED BY
TITLE 365

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

Name
Street Address
City State Zip
Razuki Investments, LLC
7977 Broadway Avenue
Lemon Grove, CA 91954

DOC# 2016-0559366



Oct 18, 2016 08:00 AM
OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$430.50
PCOR: YES
PAGES: 2

RECORDERS USE ONLY

ORDER NO. 16015783-41
ESCROW NO. 145154S-CG

GRANT DEED

TAX PARCEL NO. 369-150-13-15

The undersigned grantor declares that the documentary transfer tax is \$412.50 and is X computed on the full value of the interest of the property conveyed, or is _____ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale.

The land, tenements or realty is located in _____ unincorporated area X city San Diego and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

RICHARD P. MELOGRANO, TRUSTEE OF THE MELOGRANO TRUST DATED FEBRUARY 10, 2015

hereby GRANT(S) to

RAZUKI INVESTMENTS, LLC A CALIFORNIA LIMITED LIABILITY COMPANY

The following described real property in the City of San Diego, County of San Diego, State of California:

PARCEL 1: AN UNDIVIDED 1/46TH INTEREST IN AND TO THE SOUTHWESTERLY 219.55 FEET OF THE NORTHEASTERLY 413.55 FEET OF LOT 9 IN THE CITY OF SAN DIEGO INDUSTRIAL PART, AS MORE COMPLETELY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Dated 09/19/2016

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA,)
COUNTY OF SAN DIEGO)

On 09/19/2016 before me,
CLAUDIA GARCIA, Notary Public

personally appeared Richard P. Melograno

The Melograno Trust dated February 10, 2015

By: Richard P. Melograno
Richard P. Melograno, Trustee

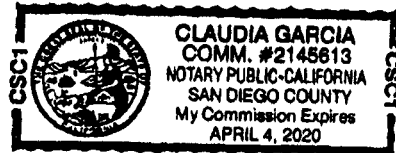
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature [Handwritten Signature], Notary Public

(Notary Seal)



MAIL TAX STATEMENTS TO PARTY SHOWN BELOW: IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE.

Name

Street Address

City & State

EXHIBIT A
Legal Description

The land hereinafter referred to is situated in the City of San Diego, County of San Diego, State of CA, and is described as follows:

A Condominium comprised of:

Parcel 1:

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Excepting therefrom all office units and industrial units as shown upon that certain Condominium Plan recorded July 31, 1981 as Instrument No. 81-242888, of Official Records.

Also excepting therefrom the exclusive right to use and possession of all those exclusive use areas designated as parking spaces and airplane parking spaces as shown upon the Condominium Plan above referred to.

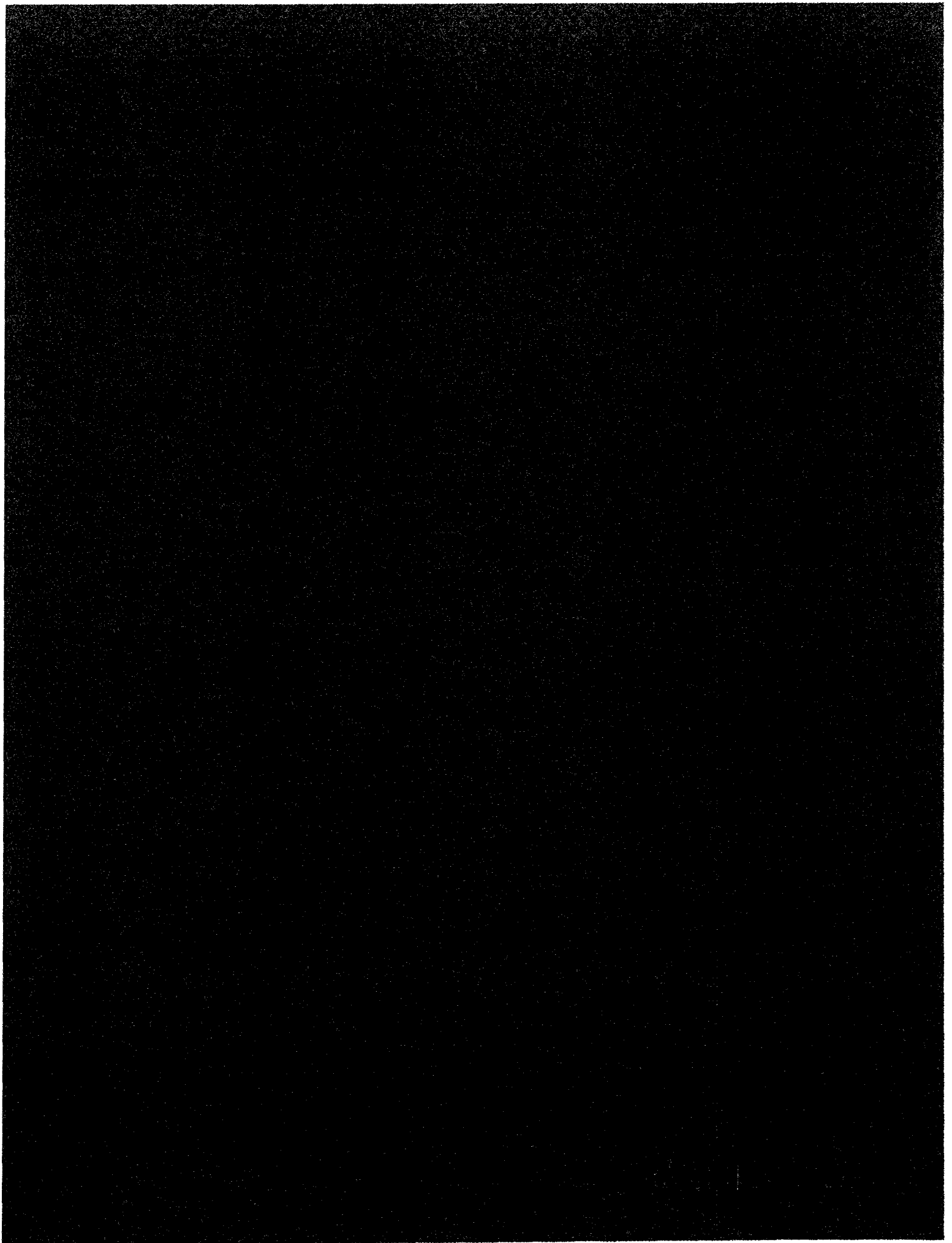
Parcel 2:

Unit 8861B as shown on the Condominium Plan referred to in Parcel 1 above.

Parcel 3:

The exclusive right to use and possession of those portions of said land described in Parcel 1 above, designated as Parking Space No. B48, B47, Airplane Parking Space No. (None).

APN: 369-150-13-15



BYLAWS
OF
MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION

ARTICLE I
DEFINITIONS

All terms as used in these Bylaws shall, unless stated otherwise, be defined as set forth in that certain Declaration of Covenants, Conditions and Restrictions recorded on _____, in Book _____, Page _____ of the Official Records of San Diego County, California (the "Declaration"), and any amendments thereto. All of the terms and provisions of said Declaration and any amendments thereto are hereby incorporated herein by this reference.

ARTICLE II
OFFICE

The principal office for the transaction of the business of the Association is hereby fixed and located within the Project, or as close thereto as practicable in the County of San Diego, State of California. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another within said San Diego County.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every person or entity who is a record Owner of a Condominium shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Condominium. Ownership of such a Condominium shall be the sole qualification for membership and shall be evidenced only by recordation in the records of the Association. No certificate of membership will be issued.

3.2 Transfer. The membership held by any Owner of a Condominium shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Condominium.

and then only to the purchaser or Mortgagee of such Condominium. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Condominium should fail or refuse to transfer the membership registered in his name to the purchaser of such Condominium, the Association shall have the right to record the transfer upon the books of the Association.

3.3 The rights of membership are subject to the payment of regular annual, special and reimbursement assessments levied by the Association, the obligation of which assessments is imposed against each Owner of and becomes a lien upon the Condominium against which such assessments are made as provided in the Declaration.

3.4 The membership rights are subject to the right of the Association to suspend the voting rights and right to use of the Common Area facilities by a Member or an occupant of a Member's Unit for any period during which any assessment against his Condominium remains unpaid and delinquent and for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association, provided that any suspension of such voting rights or right to use the Common Area facilities, except for failure to pay assessments, shall be made only by the Board of a duly appointed committee thereof after notice or hearing given and held in accordance with these Bylaws.

3.5 In the event of default by any Owner in the payments due upon a promissory note secured by a Mortgage to his individual Condominium, the Mortgagee shall have the right, upon giving written notice to said defaulting Owner and filing for record a Notice of Default, to exercise the vote of such Owner at any regular or special meeting of the Owners held during such time as said default may continue.

3.6 Any Member may delegate his right of enjoyment in the Common Area to any of his tenants. Such Member shall notify the secretary in writing of the name of any such person and the reason for delegation of said right. The rights and privileges of such person are subject to suspension to the same extent as those of the Member.

3.7 Voting Rights. The voting rights of each member shall be determined with reference to the number of square feet of floor area in his Condominium Unit. Voting rights are established as follows:

a) Each Class A member who owns a Unit shall be entitled to one (1) vote for each fifty (50) square feet of floor space in his specific Unit;

b) Each Class B member shall be entitled to three (3) votes for each fifty (50) square feet of floor space in the Units it owns.

When more than one person holds an interest in any Condominium, all such persons shall be Members. The votes for such Condominium shall be exercised as they determine among themselves, but in no event shall more than the requisite number of votes be cast with respect to any Condominium. Declarant shall be entitled to exercise voting rights for each unsold Condominium.

3.8 Cumulative Voting. For the purpose of electing or removing directors, each Member entitled to vote shall have a right to accumulate his votes and give one (1) candidate a number of votes equal to the number of directors to be elected, multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among several candidates.

ARTICLE IV

MEETINGS

4.1 An organizational meeting of the Members shall be held as soon as the sale of at least fifty-one percent (51%) of the Condominiums has been consummated, but in no event later than six (6) months from the date of the sale and conveyance of the first Unit, whichever is sooner. Thereafter, annual meetings of the Members shall be held on the second Tuesday of the month in which the organizational meeting was held of each year, at the hour of 8:00 p.m.; provided, however, that the Board by resolution may fix a date for the meeting no more than thirty (30) days before or after said date. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

4.2 Special Meetings. Special meetings of the Members may be called at any time by the Board or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all of the votes of the entire membership.

4.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the secretary or any person authorized to call the meeting by mailing a copy of such notice, postage prepaid, at least ten (10) days and no more than sixty (60) days before such meeting

to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

4.4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the votes shall constitute a quorum for any action except as otherwise provided in the Declaration or these Bylaws. If, however, such quorum shall not be present, the meeting may be adjourned to a date not less than five (5) days nor more than thirty (30) days thereafter. At such reconvened meeting, the presence of Members entitled to cast at least thirty percent (30%) of the total vote in person or by proxy shall constitute a quorum. A meeting may only be reconvened once. Thereafter, a new meeting must be called and the original quorum requirements shall be applicable.

4.5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary prior to commencement of any meeting where the proxy is to be exercised. Every proxy shall be revocable and shall automatically cease upon a conveyance by the Member of his Condominium.

4.6. Assent of Members. Wherever the Declaration or these Bylaws require the assent of the Members, the assent shall be obtained at a meeting called for the purposes pursuant to the notice, quorum and adjournment requirements applicable to special meetings pursuant to these Bylaws.

4.7. Members' Assent Required. Unless otherwise provided in the Declaration or these Bylaws, all matters at any Members' meeting shall be determined by the vote of at least fifty-one percent (51%) of the Members present in person or by proxy.

4.8. Place of Meeting. All meetings of the Members shall be held at the principal office of the Association within the project or at any other place as close to the project as possible within the County of San Diego which may be designated by the Board.

ARTICLE V

DIRECTORS AND MEETINGS

5.1 The number of directors of the Association shall be three (3). Directors shall be elected or removed by cumulative

vote of the Members. Election of directors by the Members shall be by secret ballot. The number of directors may be increased or decreased from time to time, but in no event shall there ever be less than three (3) directors, by the amendment of these Bylaws by the Members as hereinafter provided in the Article entitled Amendments.

5.2 Directors shall serve concurrent terms. Vacancies in the Board shall be filled by a majority of the remaining directors, any such appointed director to hold office until his successor is elected by the Members, who may make such election at the next annual meeting of the Members or at any special meeting duly called for that purpose.

5.3 In addition to those powers set forth in the Declaration, the Board shall have power:

a) To call special meetings of the Members whenever it deems necessary and it shall call a meeting at any time upon written request of the Members pursuant to paragraph 4.2 above;

b) To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bonds as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, officer or director of the Association in any capacity whatsoever;

c) To establish, levy and assess, and collect the assessments or charges referred to herein;

d) To adopt and publish rules and regulations governing the use of the Common Area and the personal conduct of the Members and tenants or their guests thereon;

e) To exercise for the Association all powers, duties and authority vested in or delegated to this Association; and

f) To enforce the provisions of these Bylaws, the Declaration and rules and regulations of this Association.

5.4 In addition to the duties of the Board as set forth in the Declaration, it shall be the duty of the Board:

a) To cause to be kept a complete record of all of its acts and corporate affairs and to present a statement

thereof to the Members at the annual meeting of the Members or at any special meeting when such is requested in writing by any Member;

b) To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed; and

c) As more fully provided in the Declaration:

1) To fix the amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period, and, at the same time;

2) To prepare a roster of the Condominiums and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member, and, at the same time;

3) To send written notice of each assessment to every Owner subject thereto.

5.5 Any contract entered into with a person appointed managing agent shall provide for the right of the Association to terminate the contract at the organizational meeting of the Members. No contract may be entered into by Declarant or its agent with or on behalf of the Association which will bind the Association for a period of more than one (1) year, unless reasonable cancellation provisions are included in the contract. In addition, any contract for professional management entered into by the Association, or any contract entered into with Declarant, shall provide for a termination by the Association or the management company without cause or payment of a termination fee on ninety (90) days or less written notice and shall provide for a maximum term of three (3) years.

5.6 No director shall receive any compensation for the services rendered as a director to the Association; provided, however, directors shall be reimbursed for reasonable expenditures incurred in connection with the business of the Association.

5.7 The Board may require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

5.8 A regular meeting of the Board shall be held on the first Tuesday of each month at 8:00 p.m., provided that the Board may by resolution change the day and hour of holding such regular meeting and may provide for less frequent meetings provided that meetings shall be held at least quarterly.

5.9 Notice of such regular meeting to the directors is hereby dispensed with. If the day for the regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

5.10 Special meetings of the Board shall be held when called by the president or the secretary of the Association or any director after not less than seventy-two (72) hours written notice to each director setting forth the time, place and special business to be considered.

5.11 The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and if, either before or after the meeting, each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

5.12 Any action required or permitted to be taken by the Board may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as a unanimous vote of such directors.

5.13 A majority of the Board shall constitute a quorum thereof. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present, shall be regarded as the act of the Board.

5.14 Regular and special meetings of the Board shall be held within the project and shall be open to all Members of the Association; provided, however, Members not also directors may not participate in the deliberations or discussions of the Board unless so authorized by a majority of the directors present. The Board may, with the approval of a majority of the directors present, vote to adjourn and reconvene the meeting in executive session provided the matters to be discussed are of a personal nature, involve existing or potential litigation or the like and such discussion matters are announced prior to the vote for adjournment.

ARTICLE VI

OFFICERS

6.1 The officers shall be a president, a vice president, a secretary, a chief financial officer and such other officers as the Board of Directors may deem necessary. Any person may hold two (2) or more offices except that the same person may not serve as president and secretary. The president, vice president and secretary shall be members of the Board.

6.2 The officers shall be chosen by a majority vote of the Board.

6.3 Any officer may be removed, either with or without cause, by a majority of the Board at any time.

6.4 The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out, and sign all notes, checks, leases, Mortgages, deeds and all other written instruments.

6.5 The vice president shall perform all of the duties of the president in his absence.

6.6 The secretary shall be ex-officio the secretary of the Board, shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He shall keep the records of the Association. He shall record in a book kept for that purpose the names of all Members of the Association, together with the addresses as registered by such Members.

6.7 The chief financial officer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board; provided, however, that a resolution of the Board shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The chief financial officer shall sign all checks and notes of the Association, provided that such checks and notes shall also be signed by the president or vice president. If required by the Board, the chief financial officer shall give the Association a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office, and for restoration to the Association of all its books, papers, vouchers, money and other property of every kind in his possession or under his control on his death, resignation, retirement or removal from office.

6.8 The chief financial officer shall keep proper books of account of the Association. He shall prepare an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the membership at the regular annual meeting.

ARTICLE VII

BOOKS AND RECORDS

7.1 The books, records, membership register, minutes and papers of the Association shall be kept at the principal place of business of the Association, and shall at all times, during reasonable business hours, be subject to inspection by any Member or by his duly-appointed representative for a purpose reasonably related to his interest as a Member. Each director shall have the absolute right at any reasonable time to inspect all such books, records and documents. Members and directors shall have the right to make copies of such documents. The Board shall establish reasonable rules regarding notice for inspection, hours and days when such records are available and reasonable costs for reproduction.

7.2 The Board shall cause annual financial statements, including an operating statement and balance sheet, to be made and shall cause the delivery of copies thereof to be made to the Members. The Board shall cause such annual reports to be sent to the Members not later than ninety (90) days after the close of the fiscal or calendar year, or thirty (30) days after the completion of such reports, whichever is sooner.

7.3 The Board shall cause to be prepared a six (6) month financial statement, including a balance sheet and operating statement, for the six (6) month period immediately following the date of the consummation of the first sale of a Unit to a Member, which statements shall be prepared and distributed within sixty (60) days following the expiration of the six (6) month period. The financial statement shall include a schedule of assessments received and receivables identified by the number of the subdivision interest and the name of the person or entity assessed.

7.4 The Board shall prepare a pro forma operating statement (budget) for the succeeding fiscal year which shall be distributed to the Members not less than sixty (60) days prior to beginning of the fiscal year.

ARTICLE VIII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the name of the Association, its date of incorporation and such other matters as may be required by the laws of the State of California.

ARTICLE IX

ENFORCEMENT

The Board shall have the power and authority to enforce the provisions of the Declaration, these Bylaws and any rules and regulations promulgated by the Board. In addition to the use privilege and voting suspensions as provided for in the Declaration, the Board may adopt reasonable monetary penalties for violations. In the event the Board commences any legal action to enforce any provisions of the Declaration, these Bylaws or any rules and regulations, the Association shall be entitled to reasonable attorneys' fees and court costs. Any enforcement procedures adopted by the Board may be in addition to the procedure set forth in the Declaration provided that they are not inconsistent with the enforcement provisions set forth in the Declaration.

ARTICLE X

AMENDMENTS

10.1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of not less than fifty-one percent (51%) of all votes entitled to be cast in person or by proxy; provided, however, that fifty-one percent (51%) of the votes of the Members other than Declarant shall be required to adopt any amendment, and that no material change may be made to these Bylaws without the prior written consent of fifty-one percent (51%) or more of the Mortgagees of Mortgages encumbering Condominiums within the Real Property.

10.2 Notwithstanding the above, the percentage of a quorum or of the voting power of the Association or Members other than Declarant necessary to amend a specific clause or provision in the Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

10.3 In the case of any conflict between these Bylaws and the Declaration, the Declaration shall supersede and control.

ARTICLE XI

CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both the Association and a natural person.

We, the undersigned, being all of the persons appointed to act as the first Board of Directors of MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, an incorporated association, hereby assent to the foregoing Bylaws, and adopt the same as the Bylaws of said Association.

18th IN WITNESS WHEREOF, we have hereunto set our hands this day of AUGUST, 1981.

s/ W. J. DODD

s/ E. L. PAUL

s/ CHARLES KENDRICK

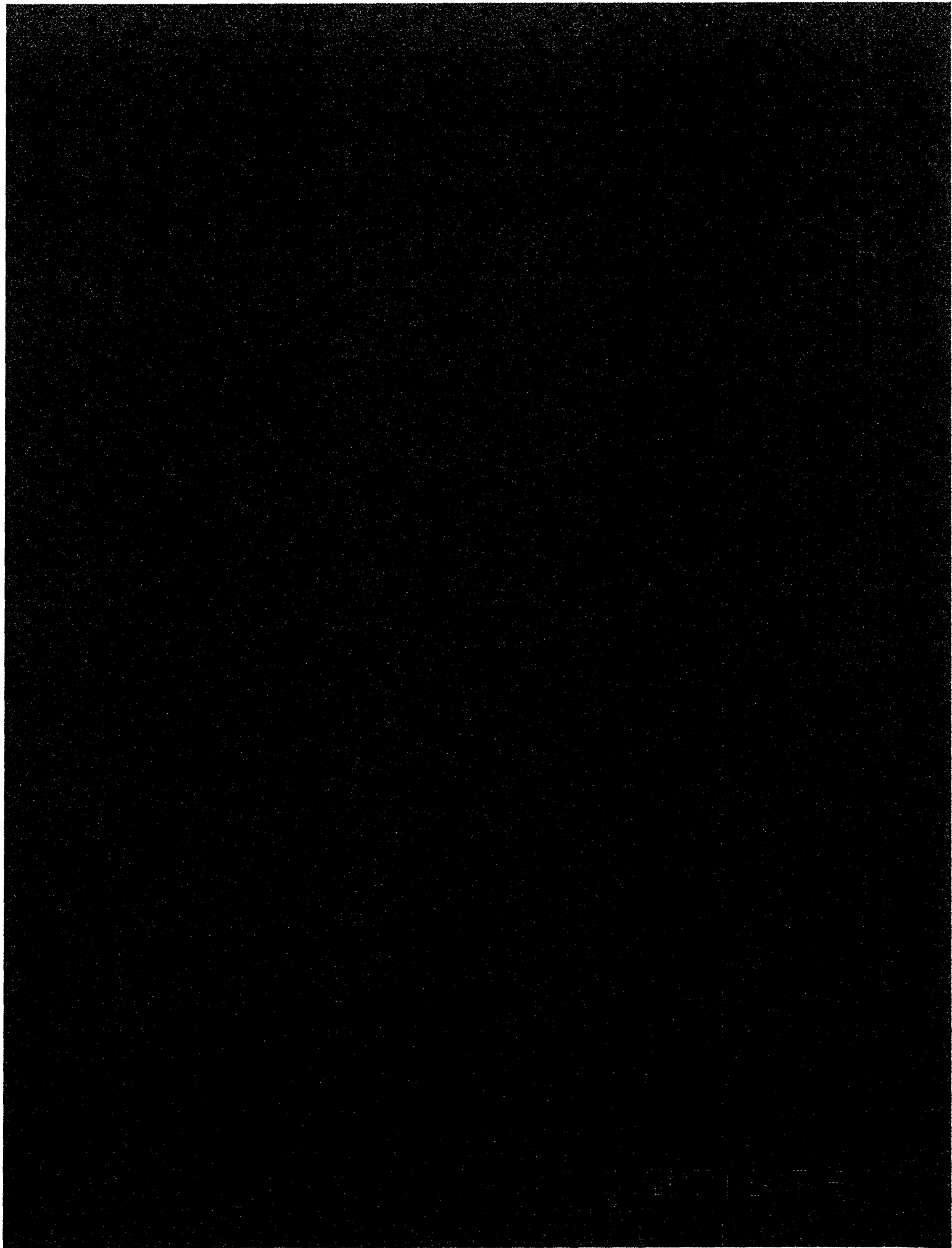
THIS IS TO CERTIFY:

That I am the duly elected, qualified and acting secretary of MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, an incorporated association, and that the above and foregoing

Bylaws were adopted as the Bylaws of the said Association on the 18th day of August, 1981, by the first Board of Directors of the Association.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of August, 1981.

J. E. SABBAT
Secretary



RECORDING REQUESTED BY:

Gauntlet, Inc.
dba Cal Condo
5333 Mission Center Road
Suite 304
San Diego, California 92108

FILE/PAGE NO. _____
BOOK 1981
RECORDED REQUEST OF
LAND TITLE INSURANCE CO.
JUL 31 12 09 PM '81
OFFICIAL RECORDS
SAN DIEGO COUNTY, CA.
VERA L. LYLE
RECORDER

\$63⁰⁰

WHEN RECORDED, MAIL TO:

J. WESLEY FRY, A Professional Corporation
1660 Hotel Circle North
Suite 518
San Diego, California 92108



DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
MONTGOMERY FIELD BUSINESS CONDOMINIUMS

Table of Contents

PREAMBLE----- 1

ARTICLE I - DEFINITIONS----- 3

Section 1 - Property----- 3

Section 2 - Condominium----- 3

Section 3 - Condominium Plan----- 3

Section 4 - Unit----- 4

Section 5 - Owner----- 4

Section 6 - Project----- 5

Section 7 - Common Area or Common Areas----- 5

Section 8 - Exclusive Use Area----- 5

Section 9 - Partition Walls----- 6

Section 10 - Association----- 6

Section 11 - Board of Directors----- 6

Section 12 - Mortgage----- 6

Section 13 - Mortgagee----- 6

Section 14 - Mortgagor----- 6

Section 15 - Deed of Trust----- 6

Section 16 - Member----- 7

Section 17 - Declarant----- 7

Section 18 - Declaration----- 7

Section 19 - Office Units----- 7

Section 20 - Industrial Units----- 7

Section 21 - Office Buildings----- 7

Section 22 - Industrial Buildings----- 7

ARTICLE II - MEMBERSHIP AND VOTING RIGHTS----- 8

Section 1 - Organization----- 8

Section 2 - Membership----- 8

Section 3 - Transfer----- 9

Section 4 - Voting Rights----- 9

Section 5 - Approval by All Membership Classes----- 10

Section 6 - Membership Rights of Certain Lessees----- 11

Section 7 - Cumulative Voting----- 11

Section 8 - Compliance with Articles, By-Laws,
Rules and Regulations----- 11

61
81-
No 242889

ARTICLE III	- COVENANT FOR MAINTENANCE ASSESSMENTS-----	11
Section 1	- Covenant to Pay Assessment-----	11
Section 2	- Purpose of Assessments-----	12
Section 3	- Amount of Annual Assessments-----	12
Section 4	- Special Assessments for Capital Improvements-----	13
Section 5	- Reimbursement Assessments-----	13
Section 6	- Notice and Quorum for Meetings Called Under Section 3-----	13
Section 7	- Assessments-----	14
Section 8	- Collection of Assessments-----	14
Section 9	- Date of Commencement of Annual Assessments; Due Dates-----	14
Section 10	- Effect of Non-Payment of Assessments; Remedies of the Association-----	15
Section 11	- Subordination to Certain Trust Deeds-----	19
ARTICLE IV	- MANAGEMENT OF THE ASSOCIATION AND THE PROJECT-----	20
Section 1	- General Powers of the Association-----	20
Section 2	- Specific Powers of the Association-----	21
Section 3	- Repair and Maintenance of the Units by Owners-----	23
Section 4	- Repair and Maintenance of Certain Common Areas by or at the Expense of Owners-----	23
Section 5	- Rules-----	24
Section 6	- Entry into Units-----	24
ARTICLE V	- PROPERTY RIGHTS AND EASEMENTS-----	24
Section 1	- Easements-----	24
Section 2	- Encroachment Easement-----	25
Section 3	- Rights of Entry-----	26
Section 4	- Easement for Single Ownership of Contiguous Units-----	26
Section 5	- Continuing Covenants-----	27
ARTICLE VI	- USE RESTRICTIONS-----	27
Section 1	- Use of Units-----	27
Section 2	- Parking-----	27
Section 3	- Nuisances - Noise Control-----	28
Section 4	- Signs-----	28
Section 5	- Inside and Outside Installations-----	29
Section 6	- Windows and Doors-----	30
Section 7	- Entrance and Door Graphics-----	30
Section 8	- Animal Regulations-----	30
Section 9	- Rubbish Removal-----	30
Section 10	- Leasing of Units-----	30
Section 11	- Further Subdivision-----	31
Section 12	- Insurance-----	31
Section 13	- Interferences-----	32
Section 14	- Vehicles-----	32
Section 15	- Common Use Areas-----	32
Section 16	- Prohibited Activities-----	32
Section 17	- Liability-----	33
Section 18	- Structures or Equipment in Common Area-----	33
Section 19	- Aircraft Parking-----	33
Section 20	- Restrooms-----	34

ARTICLE VII	- ARCHITECTURAL APPROVAL-----	35
Section 1	- Architectural Approval-----	35
Section 2	- Discretionary Powers of the Board-----	35
Section 3	- Nonliability for Decision-----	36
Section 4	- Repair and Maintenance by Unit Owner-----	36
ARTICLE VIII	- INSURANCE-----	37
Section 1	- Duty to Obtain Insurance; Types-----	37
Section 2	- Waiver of Claims Against Association-----	38
Section 3	- Rights and Duty of Unit Owner to Insure-----	38
Section 4	- Notice of Expiration Requirements-----	38
Section 5	- Insurance Premiums-----	39
Section 6	- Trustee for Policies-----	39
Section 7	- Actions as Trustee-----	40
Section 8	- Annual Insurance Review-----	40
Section 9	- Required Waiver-----	40
Section 10	- Increased Insurance Premiums-----	41
ARTICLE IX	- PROHIBITION AGAINST SEVERABILITY OF COMPONENT INTEREST IN CONDOMINIUM-----	41
ARTICLE X	- DESTRUCTION OF IMPROVEMENTS-----	42
Section 1	- Restoration of Project-----	42
Section 2	- Sale of Project-----	43
Section 3	- Right to Partition-----	44
Section 4	- Interior Damage-----	44
Section 5	- Notice to Unit Owners and Listed Mortgagees-----	44
ARTICLE XI	- EMINENT DOMAIN-----	45
Section 1	- Definition-----	45
Section 2	- Authority of Board-----	45
Section 3	- Distribution of Proceeds-----	45
ARTICLE XII	- RIGHTS OF MORTGAGEES-----	46
Section 1	- Notice of Default-----	46
Section 2	- Assessments on Foreclosure-----	47
Section 3	- Required Consent of Owners-----	47
Section 4	- Examination of Books and Records-----	48
Section 5	- Priority on Distribution of Proceeds-----	48
Section 6	- Notice of Condemnation-----	48
Section 7	- Attendance at Meetings-----	48
Section 8	- Priority of Mortgage Lien-----	49
Section 9	- Priority of This Article-----	49
Section 10	- Filing Notice-----	49
ARTICLE XIII	- DURATION AND AMENDMENT-----	50
Section 1	- Duration-----	50
Section 2	- Amendment-----	50
Section 3	- Protection of Declarant-----	51
ARTICLE XIV	- GENERAL PROVISIONS-----	51
Section 1	- Legal Proceedings-----	51
Section 2	- Severability-----	52
Section 3	- Interpretation-----	52
Section 4	- Construction and Sales by Declarant-----	52
Section 5	- Use of Common Area Facilities-----	53
Section 6	- Recordation of Notice of Breach-----	53
Section 7	- Violation Constitutes Nuisance-----	54
Section 8	- Controlling Documents-----	54

61 81-
Nº 242889

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
MONTGOMERY FIELD BUSINESS CONDOMINIUMS

THIS DECLARATION is made on this 9th day of
June, 1981, by INVESTCAL DEVELOPMENT COMPANY,
a California corporation, hereinafter referred to as
"Declarant," with reference to the following facts:

PREAMBLE:

A. Declarant is the owner of certain real property located in the City of San Diego, County of San Diego, State of California, which real property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference. All of the property described above and any improvements thereon may be referred to herein as the "Project" or the "Property."

B. It is the desire and intention of Declarant to subdivide the Property into business condominiums comprising forty-six (46) units.

C. Declarant has deemed it desirable to establish covenants, conditions and restrictions upon the Property and each and every portion thereof, which will constitute a general scheme for the management of the Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property.

D. MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, a nonprofit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

61 81-
Nº 242889

E. Declarant hereby declares that all of the Property described above is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, easements, conditions, and covenants, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of the Property for the purpose of enhancing the value, desirability and attractiveness of the Property. All provisions of this Declaration, including without limitation the easements, uses, obligations, covenants, conditions and restrictions hereof, are hereby imposed as equitable servitudes upon the Property. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and shall inure to the benefit of all of the Property and all parties having or acquiring any right, title or interest in the Property, or any part thereof, and their successors and assigns.

F. Declarant, and its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Areas, the membership in the Association, any easements conveyed therewith and the fee titles to the respective Units conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit; provided, however, that this restriction upon the severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Property is suspended in accordance with California law and the provisions of Article X of this Declaration entitled "Destruction of Improvements." Subsequent to the initial transfer of the Condominiums, any conveyance by a Unit Owner of a Condominium or a Unit, or any portion thereof, shall be presumed to convey the entire Condominium, together with a membership in the Association.

61 81-
Nº 242889

This Declaration is made by the Declarant pursuant to the provisions of Sections 1350 to 1370, inclusive, of the California Civil Code.

ARTICLE I
DEFINITIONS

Section 1. Property. "Property and/or Properties" shall mean and refer to all the land described in Paragraph A of the Preamble to this Declaration.

Section 2. Condominium. "Condominium" shall mean a condominium as defined in Section 783 of the California Civil Code and, as used herein, means a fractional undivided interest in common with the other Owners within the Project in the Common Area of said Project, together with a separate interest in a Unit or combination of Units, together with non-exclusive easements appurtenant thereto. Such fractional undivided interest in common of each Owner shall be as set forth in the instrument conveying a Condominium to such Owner. Each Condominium in the Project shall have a percentage undivided interest in the Common Area equal to the ratio which the number of square feet of floor area in the Condominium Unit bears to the total square feet of all Condominium Units within the Project.

Section 3. Condominium Plan. "Condominium Plan and/or Plan" shall mean each of those certain condominium plans and amendments or supplemental plans thereto recorded by Declarant in the Office of the County Recorder of San Diego County, California, for the Project.

Section 4. Unit. "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums in the Project. Each of the Units in the various structures shall be a separate freehold estate, as separately

61 81.
Nº 242889

shown, numbered or designated in the Condominium Plan. The upper and lower boundaries of each Unit shall be the interior unfinished surfaces of the floors and ceilings as shown on the Condominium Plan. On those sides of a Unit where the Condominium Plan shows the exterior walls or structural interior walls of the building in which the Unit is located bound the Unit, the interior unfinished surfaces of such walls shall be the lateral boundaries of the Unit. On those sides of a Unit where no structural interior walls bound the Unit, the lateral boundaries of such Unit shall be as shown on the Condominium Plan; provided, however, that such lateral boundaries shall extend to the center lines of partitions which may be constructed from time to time along such boundaries. Any sale or physical change thereof shall require the written approval of the Board as to replacing and/or removing any partition wall. In interpreting deeds, declarations and plans, the existing physical boundaries of the Unit or a Unit constructed or reconstructed in substantial accordance with the Condominium Plan and the original plans thereof, if such plans are available, shall be conclusively presumed to be the boundaries rather than the description expressed in the deed, Condominium Plan or Declaration, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries as shown on the Condominium Plan or defined in the deed and Declaration and the boundaries of a building as constructed or reconstructed. Nothing herein shall preclude any Owner of more than one Unit from transferring one of such Units so long as the undivided interest in the Common Area is conveyed with each such Unit.

Section 5. Owner. "Owner and/or Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Condominium subject to this Declaration, including Declarant, with respect to each Condominium owned by Declarant, including any contract purchaser under an installment land contract but excluding those persons holding title or an interest as security for the performance of an obligation.

Section 6. Project. "Project" shall mean the entire Property divided into Condominiums, or to be divided into Condominiums, in accordance with Section 1350 of the California Civil Code, including all structures thereon, the Common Areas, the Restricted Common Areas, and the Units within the Property contained thereon.

Section 7. Common Area or Common Areas. "Common Area or Common Areas" shall mean and include all areas on the Property, except the Units, and shall further include for maintenance purposes of the Association all gas, water, vent and waste pipes, all drains and sewers, all heating, ventilating and air conditioning ducts, duct shafts, piping, chutes, conduits, wires, fire alarms and other utility installations of the structures wherever located (except the outlets thereof when located within the Units), the real property upon which the structures are located and the airspace above the structures, all bearing, interior and exterior walls, columns, window glass, floors, roofs, slabs, foundations, corridors, lobbies, foyers, walkways, interior Common Area signage, stairways, restroom areas, drinking fountains, Common Area lights, electric and telephone equipment rooms, trash area, exterior signage, utility connections on the property outside the structure, janitor's closets, parking lots and parking areas, irrigation system piping, controls and landscaping within the Project, and all other equipment, structures or provisions that are within the Project, excluding heating and air conditioning components.

Section 8. Exclusive Use Area. "Exclusive Use Area" shall mean those portions of the Common Area designated on the Condominium Plan, set aside for the exclusive right to use by the Owners of the Unit. All exclusive use areas shall be governed by the restrictions contained herein applicable to the Common Area.

61 81-
Nº 242889

Section 9. Partition Walls. All walls which are constructed, now or in the future, between adjoining Condominiums shall be constructed centered on a Unit line as shown on the Condominium Plan. Any sale or physical change thereof shall require the written approval of the Board as to replacing and/or removing any partition wall. All demising partition walls shall be Common Areas as that term is used and defined in this Declaration. The Association shall have an easement to construct, remove, alter or repair partition walls.

Section 10. Association. "Association" shall mean MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, a California corporation (formed pursuant to the General Nonprofit Corporation Law of the State of California), its successors and assigns.

Section 11. Board of Directors. "Board of Directors or Board" shall mean the Board of Directors of the Association.

Section 12. Mortgage. "Mortgage" shall mean the conveyance of any Unit or other portion of the Property to secure the performance of an obligation, which conveyance shall be void upon the due performance of said obligation.

Section 13. Mortgagee. "Mortgagee" shall mean a person or entity to whom a Mortgage is made.

Section 14. Mortgagor. "Mortgagor" shall mean a person or entity who mortgages his or its property to another.

Section 15. Deed of Trust. "Deed of Trust" shall mean and be synonymous with the word "Mortgage" and the same may be used interchangeably with the same meaning, and likewise the word "Trustor" shall be synonymous with the word "Mortgagor" and the word "Beneficiary" shall be synonymous with the word "Mortgagee."

Section 16. Member. "Member" shall mean and refer to every person or entity who or which holds a membership in the Association, as provided in Article II, Section 2. of this Declaration. In reference to a Member, the word "his" hereby includes "her," "their," and "its"; and the word "him" hereby includes "her," "them," and "it."

Section 17. Declarant. "Declarant" shall mean and refer to INVESTCAL DEVELOPMENT CO., a California corporation, and its successors and assigns.

Section 18. Declaration. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions together with any amendments pursuant to Article XIII hereof.

Section 19. Office Units. "Office Units" shall mean those Units depicted and designated as Office Units on the Condominium Plan.

Section 20. Industrial Units. "Industrial Units" shall mean those Units depicted and designated as Industrial Units of the Condominium Plan.

Section 21. Office Buildings. "Office Buildings" shall mean those buildings depicted and designated as Office Buildings on the Condominium Plan.

Section 22. Industrial Buildings. "Industrial Buildings" shall mean those buildings depicted and designated as Industrial Buildings on the Condominium Plan.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Organisation. The Association is organized as a California corporation under the California Nonprofit Corporation Law. The Association is charged with the duties and vested with the powers prescribed by law and set forth in the Articles, By-Laws, and this Declaration. Neither the Articles nor By-Laws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. In the event that there should exist any ambiguity in any provision of the Articles or By-Laws, then such provision shall be interpreted consistently with the provisions of this Declaration.

Section 2. Membership. Every Owner of a Unit which is subject to assessment shall automatically upon becoming the Owner of a Unit be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. For each Unit there shall be on file with the Association an address of record for an Owner, if different from the Unit address, and a phone number or numbers in case of emergency, all of which shall be kept current by the Owner. Ownership of a Unit shall be the sole qualification for Membership in the Association, subject, however, to the rights of certain Lessees as set forth in Section 6. of this Article. All Memberships shall be appurtenant to the Unit conveyed, and with the exception of Declarant, a person or entity shall be deemed an Owner of a Unit only upon recordation of a deed conveying the Condominium to him. Except as may otherwise be provided herein, the rights, duties, privileges and obligations of all Members of the Association shall be as provided in this Declaration and in the Rules of the Association adopted by the Association in accordance with the By-Laws of the Association.

61 81-
Nº 242889

Section 3. Transfer. The Membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of his Unit, and then only to the purchaser or deed of trust holder of said Unit. Any attempt to make a prohibited transfer shall be void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his Membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Unit until fee title to the Unit sold is transferred as provided in this Declaration. In the event the Owner of any Unit should fail or refuse to transfer the Membership registered in his name to the purchaser of such Unit, the Board shall have the right to record the transfer upon the books of the Association. The Board shall have the right to charge a reasonable Reimbursement Assessment against any Owner, and his Unit, equal to the cost to the Association of effectuating any such transfer of his Membership upon the books of the Association.

Section 4. Voting Rights. The Association shall have two (2) classes of voting Membership.

Class A. Class A Members shall be those Owners described in Section 2 above, with the exception of Declarant for so long as there exists a Class B Membership. Each Class A Member shall be entitled to one (1) vote for each fifty (50) square feet of floor space in his specific Unit as such square footage is set forth on Exhibit "B" attached hereto and incorporated herein by reference. For Condominiums comprised of more than one (1) Unit, voting representation is based upon the sum

61 81-
No 242889

total of voting representation in accordance with the square footage set forth in Exhibit "B" for the Units which comprise the Condominium. When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The votes of Unit Owners may be exercised as they among themselves determine but in no event shall be more than the total number of votes allocated to the specific Unit to be voted for said Unit.

Class B. The Class B Member shall be Declarant.

The Class B Member shall be entitled to three (3) votes for each fifty (50) square feet of floor space in each Unit it owns as such square footage is set forth in Exhibit "B" attached hereto, provided that the Class B Membership shall cease and shall be converted to Class A Memberships on the happening of either of the following events, whichever occurs first:

(1) When seventy-five percent (75%) of the total number of square feet in all of the Units have been purchased; or

(2) Five (5) years after close of escrow of the first Unit sold by Declarant to an Owner.

All voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles of Incorporation and By-Laws of the Association.

Section 5. Approval by All Membership Classes. Notwithstanding anything to the contrary as may be contained elsewhere in this Declaration, any action by the Association which must have the approval of the Membership of the Association before being undertaken shall require the vote or written assent of the required percentage of each class of Membership during the period of time that there are two outstanding classes of Membership.

61 81-
Nº 242889

Section 6. Membership Rights of Certain Lessees.

All persons who are Lessees of a Unit under a Lease for a term of at least one year may appear, may speak by permission of the Board but may not vote at meetings of the Owners or of the Board. An Owner shall delegate to his Lessee(s) the Owner's right to the use, enjoyment and occupancy of the Common Areas within the Project. Such delegation shall be made on a triplicate form provided by the Association (1 copy each to Owner, Lessee(s), and Association), which form shall subject Lessee(s) to all of the terms and conditions of this Declaration, and shall be delivered to the Board in order to be effective.

Section 7. Cumulative Voting. For the purpose of

electing or removing directors, each Member entitled to vote shall have a right to accumulate his votes and give one (1) candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among several candidates.

Section 8. Compliance with Articles, By-Laws, Rules

and Regulations. Each Owner shall be obligated to promptly, fully and faithfully comply with and conform to each and every term and provision of the Articles of Incorporation and By-Laws of the Association and comply with and conform to each and every rule and regulation promulgated by the Board.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Covenant to Pay Assessment. Declarant,

on behalf of itself, and for each Unit Owner, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed

61 81-
Nº 242889

to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements, and (3) reimbursement assessment, all such assessments to be established and collected as hereinafter provided. The annual assessments or charges must be reasonable and shall be in an amount sufficient to include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis, and such reserve fund shall be collected as an annual and not as a special assessment. Each of the assessments, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of such Unit at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to such person's successors in title unless expressly assumed by them. Notwithstanding that such personal obligation shall not pass, the lien for any such delinquent assessments shall remain in effect with respect to the Unit following passage of title.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners and occupants of the Project and for the improvement, operation and maintenance of the Project, exclusive of individual Units, and for the Common Areas and in connection with the performance of the duties of the Association as set forth in this Declaration.

Section 3. Amount of Annual Assessments. The amount and time of payment of annual assessments against each Unit shall be determined by the Board giving due consideration to the current maintenance costs and future needs of the Association. The annual assessments against each Unit shall not be increased more than 20% over the annual assessments for the preceding year against each Unit without the vote or written consent of a

majority of the total voting power of the Association.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment or assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or restoration of the Project or any portion thereof, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto or any other action or undertaking on behalf of the Association or for use of water, electricity, gas, other utilities, or for excessive use of the Common Area or a portion thereof.

Section 5. Reimbursement Assessments. The Association may levy a reimbursement assessment against any Owner who fails to comply with the provisions of this Declaration, the determinations of the Board, the Association's Articles or By-Laws, or any rule or regulation adopted by the Association, if such failure results in the expenditure of monies by the Association in carrying out its functions herein or for purposes of collecting any fines which may be levied by the Association. Such assessment shall also be for the purpose of reimbursing the Association, shall be limited to the amount so expended, and shall be due and payable to the Association when levied.

Section 6. Notice and Quorum for Meetings Called Under Section 3. Written notice of any meeting called to approve an increase in assessments greater than 20% under Section 3. shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of Members or of proxies entitled to cast more than fifty percent (50%) of all of the votes of each class of Membership shall constitute a

61 81-
Nº 242889

quorum. If the required quorum is not present, another meeting may be called subject to the same quorum requirement.

Section 7. Assessments. Both annual and special assessments for each Unit shall be based on the comparative square footages for each respective Unit, as set forth on Exhibit "B" attached hereto. The respective percentages for each Unit are set forth on said Exhibit "B." For purposes of computing a Unit's monetary share of annual and/or special assessments, the percentage set forth for each Unit on Exhibit "B" attached hereto and incorporated herein by this reference shall be multiplied against the total annual and/or special assessment for the Project.

Section 8. Collection of Assessments. Annual Assessments will be collected on a monthly basis, unless some other period for collection is fixed or determined by the Board.

Section 9. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Units covered by this Declaration (including those Units owned by Declarant) on the first day of the month following the conveyance by Declarant of the first Unit within the Property to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board shall fix the amount of the annual assessment against each Unit at least sixty (60) days in advance of the first day of each fiscal year of the Association, but their failure to do so shall not invalidate said assessment if made late. Written notice of the amount of the annual assessment against each Unit shall be sent to every Owner subject thereto. The due dates shall be established by the Board. In the event the Board shall determine at any time that the estimate of the annual assessment for the current fiscal year is, or will become, inadequate to meet the expenses of the Association for any reason, it shall immediately determine the approximate

61 81-
Nº 242889

amount of such inadequacy and issue a supplemental estimate of the total Association expenses and determine the revised amount of the annual assessment against each Owner. The Association shall upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. Said signed certificate shall be conclusive evidence as to all third parties relying thereon to show that all assessments acknowledged therein have been paid, but shall not relieve any Owner of the responsibility for assessments not in fact paid.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Each Owner of any Unit upon becoming an Owner of any Unit, is and shall be deemed to covenant and agree to pay to the Association each and every of the assessments provided for in this Declaration and agrees to the enforcement of all such assessments in the manner herein specified. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, Owner agrees to pay reasonable attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. Any assessment not paid within fifteen (15) days after the date on which it becomes due shall thereafter bear interest from the date of delinquency at the maximum interest rate allowable by law. Additionally, the Board may assess reasonable penalties or late charges for late payment of any assessments provided for herein. In addition to any other remedies provided herein or by law, the Board, or its authorized representative, may enforce the obligations of the

Owners to pay the assessments provided for in this Declaration and each of them, in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

(a) Enforcement by Suit. By commencement and maintenance of a suit at law against any Owner or Owners personally obligated to pay assessments for such delinquent assessments as to which they are personally obligated, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon as provided for herein, costs of collection, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner. A suit to recover a money judgment for unpaid assessment shall be maintainable without foreclosing or waiving a lien hereinafter provided for.

(b) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Unit to secure payment to the Association of any and all assessments levied against any and all Owners of such Units pursuant to this Declaration, together with interest thereon as provided for in this Declaration, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any delinquency in the payment of any such assessment, the Board, or any authorized representative thereof, may make a written demand for payment to the delinquent Owner. Such demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien or lien and any demand or claim of lien or lien on account

of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board or its duly authorized representative may thereafter file and record a claim of lien on behalf of the Association against the Unit of the defaulting Owner in the Office of the County Recorder of San Diego County. Such claim of lien shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

- (1) The name of the delinquent Owner;
- (2) The legal description of the Unit against which claim of lien is made;
- (3) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and estimated attorneys' fees;
- (4) That the claim of lien is made by the Association pursuant to this Declaration; and
- (5) That a lien is claimed against said Unit in an amount equal to the amount stated, with all other amounts becoming due from time to time in accordance with this Declaration.

Upon such recordation of a duly executed original or copy of such a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Unit against which such assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration, except for tax liens for real property taxes on any Unit and assessments on any Unit in favor of any municipal or other governmental assessing Unit and except for certain trust deeds as provided in Section 11. below. Any such lien may

61
81-
Nº 242889

be foreclosed by appropriate action in court or in the manner provided in the California Civil Code for the foreclosure of a deed of trust with power of sale or in any other manner permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in California as trustee for the purpose of conducting such power of sale foreclosure. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Unit Owners and shall secure payment of all sums set forth in the claim of lien, together with all sums becoming due and payable in accordance with the Declaration after the date of recordation of said claim of lien. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Unit. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Unit, hereby expressly waives any objection to the enforcement and foreclosure of a lien in this manner and also hereby expressly waives the defense of the statute of limitations applicable to the bringing of any suit or action thereon. Upon the timely curing of any default for which a notice of claim of lien was filed by the Board and the payment of all sums secured by the lien created by the recordation of such claim of lien, the Board shall cause an officer of the Association to file and record an appropriate release of such claim of lien in the Office of the County Recorder of San Diego County, California. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Area, or any part thereof, or any other part of the Property, or abandonment of his Unit.

81-
6
Nº 242889

Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a claim of lien, whether judicially, by power of sale, or otherwise, until the expiration of ten (10) days after a copy of said claim of lien, showing the date of recordation thereof has been mailed to the Owner of the Unit which is described in such claim of lien at the address of the Project. In the event such foreclosure is by action in court, reasonable attorneys' fees shall be allowed to the extent permitted by law. In the event the foreclosure is as in the case of a mortgage under power of sale, any person designated by the Association in writing shall be deemed to be acting as the agent of the lienor and shall be entitled to actual expenses and any such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The certificate of sale shall be executed and acknowledged by any two (2) members of the Board or by the person conducting the sale. A deed upon foreclosure shall be executed in like manner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Condominium.

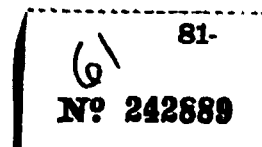
Section 11. Subordination to Certain Trust Deeds. The lien for the assessments provided for herein in connection with a given Unit shall not be subordinate to the lien of any deed of trust or mortgage, except the lien of a deed of trust or mortgage, and secured advances thereunder, given and made in good faith and for value that is of record as an encumbrance against such given Unit prior to the recordation of a claim of lien for the assessments provided for in this Declaration against such given Unit (such deed of trust or mortgage being hereinafter referred to as a "prior deed of trust"). The sale or transfer of any Unit shall not affect the assessment lien created

provided for by this Declaration to secure assessments becoming due whether prior to, on or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent assessments as provided for by this Article; provided, however, that the sale or transfer of any Unit pursuant to a judicial foreclosure or foreclosures by power of sale of a prior deed of trust, shall extinguish any assessment lien which has attached and become effective with regard to the Unit being so transferred prior to the time of such sale or transfer, and shall prohibit the creation of any assessment lien against such Unit on account of assessments which became due prior to the date of such sale or transfer; provided, however, that there shall be a lien on the interests of the purchaser at such sale which shall attach, be created and become effective, and which may be foreclosed in accordance with this Declaration and which shall secure all assessments by coming due after the date of any such sale or transfer. For the purpose of this Section 11., a sale or transfer of a Unit shall occur on the date of recordation of a deed or other instrument of title evidencing the conveyance of record title to the Unit.

ARTICLE IV

MANAGEMENT OF THE ASSOCIATION AND THE PROJECT

Section 1. General Powers of the Association. All powers relating to the management, operation and maintenance of the Project and of the Common Area, as well as certain rights, duties and powers relating to the individual Units, as hereinafter set forth, shall be vested in the Association and in its Board. The specific and primary purposes and powers of the Association and its Board are to provide architectural control of the Property, manage and maintain the Project, and the Common Area,

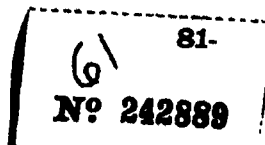


and to enforce the provisions of this Declaration and the Association's Articles and By-Laws, and any other instruments relating to the management and control of the Association and the Property. The Association shall have the right and power to employ or engage a manager or other employees or agents and contract for such services, labor and materials as it may deem reasonably necessary to operate and maintain the Project, Property and Common Area and the improvements thereon and to discharge its other duties as herein provided. Any manager, agent or employee selected prior to the first annual election shall be employed to manage or work only until such time as the continuance of the same or the selection of a new manager or agent shall be determined by the Board elected at the first annual meeting of Members. The Association may do any and all other acts and things that a nonprofit corporation is empowered to do, which may be necessary, convenient, or desirable in the administration of its affairs for the specific and primary purposes of meeting the duties of the Association as set forth in this Declaration. The Association, through its Board of Directors, shall have the authority to delegate its Owners to committees and officers of the Association or its employees.

Section 2. Specific Powers of the Association. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Maintain and repair the Common Area within the Project and any common improvements thereon or therein;

(b) Maintain such policy or policies of insurance as set forth in this Declaration, together with such other types of insurance as the Association determines is in the best



interest of the Association and its Members;

(c) Obtain for the benefit of the Common Area water and electric service;

(d) Obtain for the benefit of the Units water and sewer disposal, which services will not be individually metered to each Unit. Electricity shall be individually metered to the Units and shall be the responsibility of each Unit Owner, together with all heating, ventilating and air conditioning costs.

(e) Allocate the water bills for the project among the Unit Owners as follows: separate flow meters will be maintained for each building and the Association will bill each Unit Owner for his percentage share of his building's percentage share of the total water bill as determined by the Board. Each Unit Owner's percentage share of his building's share of the water bill will be based on each Unit Owner's floor area versus the total floor area for each building. The Board shall have the right to install separate flow meters for any Units which the Board believes or suspects that an individual Unit may be using above average amounts of water and the Board may thereafter bill each Unit Owner separately for his Unit's water based on the Unit Owner's percentage interest of the total water bill as determined by the Board based on each Unit Owner's total use of water as determined by the separate flow meter. All reasonable good faith determinations of the Board shall be final and conclusive upon all Unit Owners.

(f) Pay the taxes and assessments which are or could become a lien on the Common Area or some portion thereof;

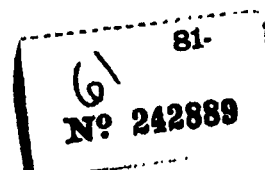
(g) Prepare budgets and financial statements for the Association and its Members as prescribed in the By-Laws of the Association;

(h) Shall provide and pay for common refuse disposal;

(i) All Unit Owners shall provide and pay for their own janitorial service.

Section 3. Repair and Maintenance of the Units by Owners. Except to the extent that the Association is obligated herein to maintain a portion of a Unit, each Owner shall maintain, repair, replace and restore all portions of his Unit including, without limitation, the heating and air conditioning components. Additionally, each Owner shall keep and maintain the interior walls, ceilings, windows, floors and doors in a clean, sanitary and attractive condition. All such repairs and maintenance pursuant to this Section shall be subject to the rules therefor as the Association may from time to time establish. With respect to window glass, each Owner shall be responsible and shall pay for the cleaning and the repair and replacement of all window glass.

Section 4. Repair and Maintenance of Certain Common Areas by or at the Expense of Owners. In the event the Board shall determine that the walls, ceilings, floors, glass or doors forming the boundaries of a Unit have been damaged from within the Unit, notwithstanding that such damage may be to the Common Area, or that the windows need cleaning, or that the heating or air conditioning systems for a Unit need repair or maintenance, the Owner of the Unit shall be responsible for repairing or paying for such damage in a timely manner and in accordance with such rules as the Board shall from time to time adopt. In the event such repair is not accomplished by the Owner, the Association or its delegates shall have the right at reasonable times to enter the Unit to effect such repair, and the cost thereof shall be charged to the Owner of the Unit involved and, if not paid in a timely manner, said costs shall constitute a Reimbursement Assessment against the Unit and in favor of the Association.



Section 5. Rules. The Association shall adopt and may amend from time to time reasonable rules relating to the use and operation of the Common Area and any facilities or improvements thereon. A copy of such rules and of all amendments thereto shall be mailed to each Owner of a Unit.

Section 6. Entry into Units. The Association and its representatives shall have the right to enter upon any Unit within the Project to the extent such entry is necessary in connection with the performance by the Association of its duties and responsibilities under this Article or under this Declaration, specifically including, without limitation, the construction, maintenance or repair of the Common Area or any portion thereof. In addition, each Unit within the Project shall be subject to a nonexclusive easement for entry onto such Unit for the benefit of the adjacent Units so that the Owner of such adjacent Unit may effect any necessary repairs to the improvements on his Unit or any portion thereof, or in connection with any emergency for the benefit of any Unit or the Common Area.

Section 7. Easements. The Association shall have as easement over the Common Areas for all purposes discussed in the Declaration.

ARTICLE V

PROPERTY RIGHTS AND EASEMENTS

Section 1. Easements. Declarant expressly reserves for the benefit of Owners in the Project reciprocal, nonexclusive easements of access, ingress, egress and enjoyment over all of the Common Areas. Such easements may be used by Declarant, its successors, purchasers and all Unit Owners, their employees, customers, guests, tenants and invitees, occupying or visiting

61 81-
Nº 242889

the Project, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit in the Project. Declarant expressly reserves for the benefit of the Board and all agents, officers and employees of the Association nonexclusive easements over the Common Areas as necessary to maintain and repair the Common Areas and to perform all other tasks in accordance with the provisions of this Declaration. Such easements shall be appurtenant to and shall pass with the title to every Unit conveyed. Declarant expressly reserves for itself so long as it is an Owner, and for the benefit of the Association, the right to grant additional easements and rights of way to utility companies and public agencies, as necessary, for the proper development and disposal of the Project.

Section 2. Encroachment Easement. The Declarant, its successors and assigns, and all future Owners of Units, by acceptance of their respective deeds, covenant and agree as follows:

(a) That if a portion of the Common Area encroaches upon the Units, a valid easement into the Unit in order to accommodate the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a Unit is partially or totally destroyed, and then rebuilt, the Owners of Units agree that minor encroachments of parts of the Unit into the Common Area due to construction shall be permitted and that valid easement for said encroachment and the maintenance thereof shall exist.

(b) That the Common Area is and shall always be subject to easements for minor encroachments thereon of the Unit and that a nonexclusive easement for ingress, egress, and support through the Common Area is appurtenant to each Unit and the Common Area is subject to such easements.

61 81-
Nº 242889

Section 3. Rights of Entry. The Board shall have a limited right of entry in and upon the exterior of all Units for the purposes of inspecting the Project and taking whatever corrective action may be deemed necessary or proper by the Board, consistent with the provisions of this Declaration. However, nothing herein shall be construed to impose any obligation upon the Association to maintain or repair any property to be maintained or repaired by the Owner of any Unit. Nothing in this Article shall in any manner limit the right of the Owner to exclusive occupancy and control over the interior of his Unit. However, an Owner shall grant a right of entry to the Board or any other person authorized by the Board in case of an emergency originating in or threatening his Unit, whether the Owner is present or not. Furthermore, an Owner shall permit other Owners, or their representatives, to enter his Unit for the purpose of performing required installations, alterations or repairs to the mechanical, plumbing or electrical services to a Unit, provided that such requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner whose Unit is to be entered. In case of any emergency, such right of entry shall be immediate.

Section 4. Easement for Single Ownership of Contiguous Units. There is hereby reserved to Declarant, together with the right to grant and transfer the same, a nonexclusive easement appurtenant to the Units adjacent to each Interior Boundary Plane for the purpose of erecting or removing Partition Walls and passing from Unit to Unit (with the permission of the Owner of the Unit being entered). For the purposes of determining single ownership of contiguous Units as provided in this Declaration, any one or more of the following persons or entities shall be considered a single Owner: (i) All persons, trusts, partnerships, syndicates, and corporations of which an Owner is a beneficiary, partner, member, or record or beneficial stockholder owning 25 percent or more of the capital stock, or a nominee for any of these persons or entities; (ii) Members of the immediate family of any Owner.

61 81-
Nº 242889

Section 5. Continuing Covenants. Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Units and the Common Area, as the case may be, superior to all other encumbrances applied against or in favor of any portion of the Property which is the subject of this Declaration. In furtherance of the easements provided for in this Declaration, the individual grant deeds to Units may, but shall not be required to, set forth said easements.

ARTICLE VI
USE RESTRICTIONS

Section 1. Use of Units. Units may be used for any lawful purpose as permitted by local law and regulations as of the date of the recordation of this Declaration provided, however, the Units in the Office Buildings, i.e., the Office Units, may not be used for any type of retail activity. Any use of a Unit which may now or in the future require a use variance from the city of San Diego must first be approved in writing by a majority of the Board in order for such use to be permitted under the terms of this Declaration.

Section 2. Parking. One (1) parking space shall be deeded to each Unit Owner of the Office Buildings and two (2) parking spaces shall be deeded to each Unit Owner of the Industrial Buildings as Exclusive Use Areas, as depicted on the Condominium Plan as determined by Declarant. Only passenger motor vehicles may be parked in the parking areas which constitute portions of the Common Areas and Restricted Common Areas unless otherwise determined by the Board. The use of all parking spaces shall be controlled and regulated by the Board. The Board shall adopt and may later amend from time to time, rules and regulations governing such use and copies of such rules and regulations shall be distributed to all Owners.

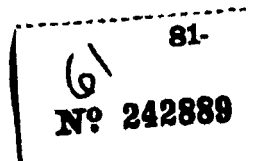
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Nº 242889

Section 3. Nuisances - Noise Control. No noxious or offensive activities shall be carried on in any Unit within the Project. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. Each Owner shall comply with all the requirements of the local and/or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Unit and its appurtenant services. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of his employees, customers, tenants, guests and invitees, and any damages to the Common Area, personal property of the Association, or property of another Owner, caused by such employees, customers, tenants, guests or invitees shall be repaired or replaced at the sole expense of the Owner. In the event such repair is not accomplished by the Owner, in a timely manner, the Association or its delegates shall have the right to effect such repair and the cost thereof shall be charged to the Owner of the Unit and, if not paid in a timely manner, shall be deemed a Reimbursement Assessment.

Section 4. Signs. No signs, posters, displays, or other advertising devices of any character shall be erected or maintained on, shown or displayed from the window of any Unit without the prior written consent of the Board; provided, however, that the restrictions of this Section shall not apply to any sign or notice of customary and reasonable dimension which states that the premises are for rent or sale. Such sign or notice may be placed within a Unit but not upon any portion of the Common Areas. Address and identification signs shall be maintained by the Board. This Section shall not apply to any signs used by Declarant, or its agents in connection with the sale and/or lease of any Unit in the Project. Notwithstanding the foregoing, nothing herein contained shall be construed in such a manner as to permit the maintenance of any sign which is not in accordance with any ordinance of the city of San Diego.

61 81-
Nº 242889

Section 5. Inside and Outside Installations. No outside installation of any type, including but not limited to a television or radio antenna, shall be constructed, erected or maintained on any Unit, excepting antennae and heating and air conditioning components installed by Declarant as a part of the initial construction of the Project and except as may be installed by or with the prior written consent of the Board. No machinery of any kind shall be installed on the exterior of the building of the Project or be allowed to protrude through the walls or roof of this building unless the prior written approval of the Board is first obtained. Notwithstanding the specificity of the foregoing, no exterior addition, change or alteration to any Unit shall be commenced without the prior written approval of the Board. Nothing shall be done in any Unit or in, on or to the Common Areas which will or may tend to impair the structural integrity of the Project or which would structurally alter the building except as otherwise expressly provided herein. There shall be no alteration, repair or replacement of wall coverings within the Units which may diminish the effectiveness of the sound control engineering within the building. There shall be no destruction of any part of the Common Areas, and no Common Area wall in the Project shall be pierced or otherwise altered in any way without the prior written approval of the Board. Such approval may require a structural engineering analysis, to be at the expense of the applicant-Owner. No Owner shall cause or permit any mechanics' lien to be filed against any portion of the Project for labor or materials alleged to have been furnished or delivered to the Project or any Unit for such Unit Owner. Any such Owner shall immediately cause such lien to be discharged by payment, bonding or otherwise. If such lien is not so discharged within ten (10) days after written notice to the Unit Owner from the Board, the Board may discharge the lien and charge the Unit Owner a Reimbursement Assessment for such cost of discharge, to include reasonable attorneys' fees.



Section 6. Windows and Doors. To establish uniformity in the exterior appearance of the building, no shutter, screen, blind, curtain, drape or appurtenance visible from any Common Area or public street shall be constructed, permitted or maintained in or on any window or door until the Board has given its written approval to the exterior appearance thereof, excepting only such items as may be installed by the Declarant, if any, and comparable replacements thereof.

Section 7. Entrance and Door Graphics. All entrance and door graphics must be approved by and be in accordance with such standards as are adopted from time to time by the Board.

Section 8. Animal Regulations. No animals of any kind shall be kept in any Unit except that fish in an aquarium approved by the Board may be kept within any Unit.

Section 9. Rubbish Removal. Trash, garbage, and other wastes shall be disposed of only by depositing same into a designated trash container suitably placed or designated by the Board so as to be properly screened from the public view so as not to detract from the physical appearance of the Project. No portion of the Project shall be used for the storage of building materials, refuse or any other materials, other than in connection with approved construction. The cost of trash collection and removal shall be borne by the Association and shall constitute a portion of the Common Expenses. If the need for increased refuse disposal services arises, the Board reserves the right to assess the Owner or Owners whose activities create such a need.

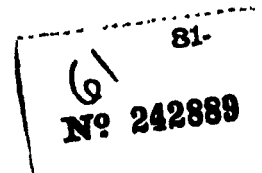
Section 10. Leasing of Units. Any Owner may lease all or a portion of his Unit by means of a written lease so long as the Unit is not leased for use prohibited by this

61
81-
Nº 242889

Declaration or by applicable governmental regulations. Any lease must provide expressly that the terms of any such lease shall be subject in all respects to and that the lessee shall abide by the provisions of this Declaration, the By-Laws of the Association, and all rules and regulations adopted by the board and any failure by the lessee of such Unit to comply with the terms of this Declaration, the By-Laws of the Association or the rules and regulations shall constitute a default under the lease. Notwithstanding the failure to include such language, any such lease shall be subject to such provisions, which shall be deemed to be incorporated by reference therein and shall be approved in writing by the Board. All leases shall be in writing.

Section 11. Further Subdivision. No Owner of a single Unit shall further subdivide said Unit. An Owner of two (2) or more contiguous Units shall not subdivide his Condominiums without the prior written consent of the Board as provided in Article VII of this Declaration, and without first having complied with all the applicable laws and regulations; provided, however, that this provision shall not be construed to limit the right of a Unit Owner to lease all or a portion of his Unit, pursuant to Section 10. above, by means of a written lease subject to the restrictions of this Declaration.

Section 12. Insurance. No Unit or improvement situated thereon shall be occupied or used for any purpose or in any manner which shall cause such improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement of the California Standard Fire Policy form or cause any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse the renewal thereof, or cause the premium for such insurance to be increased.



Section 13. Interference. No Unit shall be used in such a manner as to obstruct or interfere with the enjoyment of the Owners or occupants of other Units or annoy them by unreasonable noises or otherwise, nor shall any nuisance or illegal activity be permitted to occur in any Unit.

Section 14. Vehicles. The Owners and their guests, invitees, tenants, and patrons shall not park motor vehicles in the Common Area, except in the parking areas provided for such use. No boat, trailer, recreational vehicle or equipment shall be stored at any time within the Project.

Section 15. Common Area Uses. The Common Area shall be improved and used only for the following purposes:

- (a) Affording pedestrian movement and vehicular storage and movement within the Project, including access to the Units;
- (b) Utilizing the Common Areas for the purposes for which they have been put by the Association, and such use to be by the Owners, invitees, tenants, customers, clients and patrons, subject to the rules and regulations established by the Board;
- (c) Beautification of the Project and providing privacy to the Owners thereof through landscaping and such other means as the Board shall deem appropriate; and
- (d) A nonexclusive easement for ingress, egress and support throughout the Common Area is and shall be appurtenant to each Unit and the Common Area is and shall be subject to such easement.

Section 16. Prohibited Activities. No part of the Common Area shall be obstructed so as to interfere with its use

61 81-
Nº 242889

for the purposes hereinabove permitted; nor shall any part of the Common Area be used for storage purposes (except as incidental to one of the permitted uses) or in any manner which shall increase the rate charged for insurance against loss by fire or the perils of the extended coverage endorsement of the California Standard Fire Policy form or Public Liability or Property Damage Liability covering the Common Area and improvements situated thereon, or in a manner which shall cause said premises to be uninsurable against such risk or cause any policy or policies representing such insurance to be cancelled or suspended or the company issuing same to refuse renewal thereof.

Section 17. Liability. The Owner of each Unit shall be legally liable to the Association for all damage to the Common Area or to any improvement, facility or landscaping located thereon caused by such Owner, tenant, occupant or patron of such Owner's Unit or any guest of an Owner. No Owner shall have the right to improve decorate, remodel, alter, landscape or adorn the Common Area without the written consent of the Board. Any such actions shall be subject to the rules and regulations established by the Board.

Section 18. Structures or Equipment in Common Area. No structures or equipment, such as heat exchangers or air compressors by way of example, may be placed or maintained in the Common Area without the specific written consent and approval of Declarant or the Board, which Board approval shall require appropriate screening, fencing, landscaping and/or beautification to shield said structures and/or equipment from public view.

Section 19. Aircraft Parking. Aircraft may be parked in that area designated on the Condominium Plan

61 81-
Nº 242889

as Aircraft Parking Area. Declarant may assign by deed as exclusive Use Area aircraft parking spaces in the Aircraft Parking Area as depicted on the Condominium Plan. Additionally, any aircraft parking spaces not so depicted, may be assigned, rented or leased by Declarant or by the Board to individual owners. Additionally, the Board may regulate and control the use of the Aircraft Parking Area and said aircraft parking spaces and may make and enforce rules and regulations concerning said use. Declarant has not warranted and hereby disclaims any warranty or representation as to continuing access between the Aircraft Parking Area and Montgomery Field or its taxiways or runways. The Board shall have the right to convert the Aircraft Parking Area to other use if the Board determines that it is no longer practicable, legal or desirable to utilize the Aircraft Parking Area for aircraft parking. The Board may reasonably assess on an equitable basis the owners, lessees and users of said aircraft parking spaces for maintenance cost of the Aircraft Parking Area. Said Aircraft Parking Area may not be used for repairs or maintenance to or servicing of aircraft but instead shall be used exclusively for the parking of aircraft unless otherwise determined by the Board. All users of the Aircraft Parking Area shall comply with all laws, rules, regulations and ordinances applicable to aircraft and otherwise. No fixed base operators may utilize the Aircraft Parking Area at any time.

Section 20. Restrooms. The restrooms located in the Office Buildings (those buildings designated on the Condominium Plan as Office Buildings) shall be used only by the Owners of the Office Units and their guests and invitees and by no one else. All of the costs to maintain and repair said restrooms, including but not limited to the cost of supplies, water

61 81-
Nº 242889

electricity, painting, plumbing repair and maintenance, replacements of fixtures, shall be assessed to and paid by the owners of the Office Units on a proportionate basis determined by their relative square footage as more particularly set forth in Exhibit "C" attached hereto and incorporated by reference herein. The Board shall have the right to reasonably assess any Unit Owner for any maintenance or repair expenses to a restroom, which the Board determines to have been caused by a Unit Owner, his guests, patrons, invitees or customers.

ARTICLE VII

ARCHITECTURAL APPROVAL

Section 1. Architectural Approval. No material interior improvement to any Unit, nor any replacement, addition or alteration to any building or structure, shall be effected other than by Declarant, until the plans, specifications and plot plan showing the location and nature of such improvement, replacement, addition, alteration, or removal have been submitted to and approved in writing by the Board nor shall any exterior painting or decorative alteration be commenced until the Board has approved the plans therefor including the proposed color scheme, design thereof and the quality of materials to be used. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property nor shall any exterior addition to or change or alteration therein, including, but not limited to, walls, doors, be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the consent of the Board.

Section 2. Discretionary Powers of the Board. The approval of the plans and specifications may be withheld not

61
81-
Nº 242889

only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by reason of the reasonable dissatisfaction of the Board with the proposed Unit improvements, including without limitation, the elevations, finish, design, proportions, architecture, shape, height, style and appropriateness of the proposed improvements or alterations, the materials used therein, or because of its reasonable dissatisfaction with any or all other matters of things which, in the reasonable judgment of the Board will render the proposed item or improvement inharmonious or out of keeping with the general plan of improvement of the Property or with the improvements, alterations or additions erected with other Units.

Section 3. Nonliability for Decision. No member of the Board shall be liable to any person for his decisions or failure to act in making decisions as a member of the Board. The members of the Board shall receive no compensation for their service performance pursuant to this Declaration.

Section 4. Repair and Maintenance by Unit Owner
Each Unit Owner at his sole cost and expense shall maintain, repair, replace, apply gypsum wallboard, paint, paper, plaster, tile, finish and restore or cause to be so maintained, repaired, replaced and restored, all portions of his Unit, including the interior surfaces of the walls, ceilings, windows, floors, doors and permanent fixtures, in a clean, sanitary and attractive condition, in accordance with the original construction improvement plans for the interior Unit design of the improvements in the Project, subject to control and approval of the Board. Notwithstanding the foregoing, no interior walls, ceilings, floors or other structural or utility bearing portions of the building housing the Units shall be pierced, repaired or otherwise

61 81-
Nº 242889

altered, without the prior written approval of the plans for such alteration or repair by the Board. It shall be the duty of each Unit Owner to pay when due any and all charges for all utility services which services are not centrally metered but are separately metered to his Unit.

ARTICLE VIII

INSURANCE

Section 1. Duty to Obtain Insurance; Types. The Board on behalf of the Association shall obtain and continue in effect adequate blanket public liability insurance (including medical payments), casualty insurance and fire insurance with extended coverage in an amount equal to one hundred percent (100%) of the full insurance replacement cost of the Project, without deduction for depreciation. Such insurance shall be maintained by the Board for the benefit of the Association, the Owners and the encumbrancers upon the Project or any part thereof as their interests may appear as named insured, subject, however, to loss payment requirements as set forth therein. Each such policy shall contain a mortgage clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of the mortgagees as their interest may appear. The policy of public liability insurance covering Common Areas shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners. The Association shall maintain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association as the named insured. Persons serving without compensation shall be covered by an endorsement to the policy if not otherwise covered under the policy. The Board of Directors may purchase such other insurance as it may deem necessary, including but not limited to plate glass insurance and workers' compensation and directors and officer's liability insurance.

Section 2. Waiver of Claims Against Association. As to each policy of insurance maintained by the Board, the Unit Owners hereby waive and release all claims against the Association, the Board and Declarant only to the extent of the insurance proceeds available to the Owners, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by said persons.

Section 3. Rights and Duty of Unit Owner to Insure. Each Unit Owner shall provide insurance on his personal property and upon all other property and improvements within his Unit. Nothing herein shall preclude any Unit Owner from carrying any public liability insurance as he may deem desirable to cover his individual liability from damage to person or property occurring inside his individual Unit or elsewhere upon the Project. All such other policies as may be carried by Owners shall contain waivers of subrogation of claims against Declarant, the Association, the Board, the Officers of the Association, and all other Owners. Such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Association, and duplicate copies of such other policies shall be deposited with the Board. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

Section 4. Notice of Expiration Requirements. All of the policies of insurance described herein shall contain provisions that said policy or policies shall not be cancelled

61 81-
Nº 242889

or terminated, or expire by their terms, without thirty (30) days' prior written notice to the Board, Declarant, Owners and the respective first mortgagees (provided that such Owners or mortgagees have filed written requests with the carrier for such notice) and every other person in interest who shall have requested such notice of the insurer.

Section 5. Insurance Premiums. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board shall be a common expense to be included in the assessments levied by the Association, collected from the Owners and the proportion of such payments necessary for the required insurance premiums shall be used only for the payment of premiums of required insurance as such premiums become due.

Section 6. Trustee for Policies. The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Section 1. of this Article shall be paid to the Board of Directors as Trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation by mortgagees who have filed written requests under Section 4. of this Article to the extent they desire. Any two Directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

Section 7. Actions as Trustee. Except as otherwise specifically provided in this Declaration, the Board, acting on behalf of the Association and all Owners, shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance, in a manner satisfactory to seventy-five percent (75%) of the mortgagees of Units who have filed requests under Section 4. of this Article to the extent such mortgagees desire to participate. Duplicate originals or certificates of all policies of fire and casualty insurance carried by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all mortgagees who have requested the same in writing.

Section 8. Annual Insurance Review. The Board shall review the insurance carried by the Association at least annually, for the purpose of determining the amount of casualty and fire insurance referred to in Section 1. above. The Board shall obtain a current appraisal of the full replacement value of the buildings and improvements in the Project, except for foundations and footings and masonry walls, without deduction for depreciation, by a qualified independent insurance appraiser prior to each such annual review.

Section 9. Required Waiver. All policies of physical damage insurance shall provide for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

(a) Subrogation of claims against the tenants of the Unit Owners;

(b) Any defense based on co-insurance;

(c) Any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;

(d) Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured, or the respective agents, contractors and employees of any insured;

(e) Any right of the insurer to repair, rebuild or replace, and, in the event the building is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the improvements insured or the fair market value thereof;

(f) Notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit; and

(g) Any right to require any assignment of any mortgage to the insurer.

Section 10. Increased Insurance Premiums. Any increase in insurance premiums over the normal or standard premium costs which results from an Owner's use shall be paid for by said Owner within ten (10) days after the Association delivers to the Owner a certified statement from the Association's insurance carrier stating that the rate increase was caused solely by an activity of the Owner on the premises.

ARTICLE IX

PROHIBITION AGAINST SEVERABILITY
OF COMPONENT INTEREST IN CONDOMINIUM

The undivided interest or interests in the Common Area established hereby and the fee title to the respective

Units conveyed therewith together with any exclusive easements appurtenant to each Unit shall not be separated, severed or separately conveyed, encumbered or otherwise transferred and each such undivided interest in the Common Area shall conclusively be deemed to be conveyed, transferred or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit. It is intended hereby to restrict severability of the various components of a Condominium in the manner provided by Section 1355(g) of the Civil Code of California. Nothing herein contained shall be construed to preclude an Owner of any Unit from creating a co-tenancy in the ownership of a Unit with any other person or persons.

ARTICLE X

DESTRUCTION OF IMPROVEMENTS

Section 1. Restoration of Projects. Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Project, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to this Declaration shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Project shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Board shall have been approved in writing by members holding seventy-five percent (75%) of the voting power of the Association. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be at least eighty-five percent (85%) of the estimated costs of

81-

61
Nº 242889

restoration and repair, a special assessment of the Unit Owners, with the Owner of each Unit contributing the percentage as specified in Exhibit "B" attached hereto, may be levied by the Board to provide the necessary additional funds for such reconstruction over and above the amount of any insurance proceeds available for such purpose. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than eighty-five percent (85%) of the estimated cost of restoration and repair, the Owners, by the vote of not less than seventy-five percent (75%) of the voting power of the Association present and entitled to vote, in person or by proxy, at a duly constituted meeting of the Members of the Association, together with the approval of the holders of all mortgages of record upon Units in the Project, may determine that the Association shall be authorized to proceed with such restoration and repair. In which event the Association shall in fact proceed to repair and restore the premises. If the Owners and their mortgagees fail to elect to repair and restore as provided above, the Owners shall proceed as provided in Section 2. below.

Section 2. Sale of Project. A certificate of the resolution authorizing such reconstruction shall be filed with the San Diego County Recorder within six (6) months from the date of such destruction and in the event of a failure to record such certificate within said period, it shall be conclusively presumed that the Owners have determined not to rebuild said improvements. In such event, the proceeds of any insurance carried by the Association shall be divided among the Owners of each specific Unit based upon the respective fair market value that each of the Condominiums bears to the total fair market value of all of the Condominiums in the Project sharing in the distribution. The proportionate value of the Owners of the respective Condominiums for purposes of this Section shall be based on the respective fair market value of each Unit at the time of the destruction as determined by the Board based on an appraisal prepared by an independent appraiser

who is an M.A.I. member of the American Institute of Real Estate Appraisers.

Section 3. Right to Partition. No Owner shall have the right to partition of his interest in his Unit and there shall be no judicial partition of the Project, or any part thereof, except that in the event that a certificate of a resolution to rebuild or restore has not been recorded as provided above within six (6) months from the date of any partial or total destruction, or if restoration has not actually commenced within said period, then conditions for partition as set forth in the California Civil Code and Code of Civil Procedure shall be deemed to have been satisfied. Nothing herein shall be deemed to prevent partition of a tenancy of any Unit. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Units and for the benefits of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

Section 4. Interior Damage. Restoration and repair of any damage to the interior of any individual Unit, including without limitation all fixtures, cabinets and improvements therein together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of each Owner of the Unit so damaged. In the event of a determination to rebuild the Project after partial or total destruction, as provided in this Article, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Board, as provided herein.

Section 5. Notice to Unit Owners and Listed Mortgagees. The Board, immediately upon having knowledge of any damage or

61 81-
No 242889

destruction to the Project, the building, the Units, the Common Areas, or any portion thereof, shall promptly notify all affected Owners, all affected holders of first mortgages on Units in the Project and all other affected mortgagees who have filed a written request for such notice with the Board. In the event of a determination to rebuild the Project after partial or total destruction as provided in this Article, the number of Units in the Project as rebuilt may not exceed the number of Units as shown on the Condominium Plan.

ARTICLE XI
EMINENT DOMAIN

Section 1. Definition. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or a part of the Property.

Section 2. Authority of the Board. In the event of a taking, the Board shall, subject to the right of all holders of mortgages who have requested the right to join the Board in the proceedings, represent all of the Owners in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board in the fulfilling of its duties under this Article. The Board is further empowered, subject to the limitations herein, as and shall be the sole representative of the Owners, in all aspects of condemnation proceedings not specifically covered herein.

Section 3. Distribution of Proceeds. In the event of a taking, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceeding including, without limitation, reasonable attorneys' and appraisers' fees and court costs.

61
81-
Nº 242889

In the event that the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective lenders, the Board shall distribute the amount remaining after such deductions among such Owners and their lenders on the allocation basis set forth in such judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Board shall distribute the award among the Owners and their individual lenders as their respective interests may appear. The proportionate interest of the Owners of the respective Condominiums sharing in any such award shall be based upon the respective fair market value that each of the Condominiums bears to the total fair market value of all of the Condominiums in the Project sharing the distribution. The proportionate value of the Owners of the respective Condominiums for purposes of this Section shall be based upon the respective fair market value of each Unit at the time of the destruction as determined by the Board based on an appraisal prepared by an independent appraiser who is an M.A.I. member of the American Institute of Real Estate Appraisers. In addition, all of the conditions for partition as provided by California law shall be deemed to have been satisfied and the right of any Owner to partition his Unit through legal action shall forthwith revive.

ARTICLE XII

RIGHTS OF MORTGAGEES

Notwithstanding any provisions to the contrary as may be provided elsewhere in the Declaration, Mortgagees shall have the following rights:

Section 1. Notice of Default. Any Mortgagee on a Unit shall be entitled to receive upon written request to the

61 81-
Nº 242889

Association written notification from the Association of any default by the Owner of such Unit in the performance of such Owner's obligations under this Declaration or the Association's By-Laws which are not cured within thirty (30) days from the date of such default.

Section 2. Assessments on Foreclosure. Any Mortgagee which comes into possession of any Unit pursuant to the remedies provided in the Mortgage, including, but not by way of limitation, deeds in lieu of foreclosure, or through foreclosure of the Mortgage, shall take title to such Unit free of any claims for unpaid assessments or charges against such Unit which accrued prior to the time the Mortgagee acquired title to the Unit. However, from the date of obtaining title to the Unit, Mortgagee shall be deemed an Owner and shall be liable thenceforth for all assessments set forth in this Declaration.

Section 3. Required Consent of Owners. Unless at least seventy-five percent (75%) of the voting power of the Owners and seventy-five percent (75%) of the first mortgagees have given their prior written approval, the Association shall not be entitled to:

(a) Change the prorata interest or obligations of any Unit for (i) purposes of levying assessments and charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the prorata share of Ownership of each Unit in the Common Area;

(b) By act or omission seek to abandon or terminate the Condominium status of the Project;

(c) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas of the

Project. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this provision; and

(d) Use hazard insurance proceeds for losses to any Common Area property (whether to Units or to Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Unit and/or Common Areas of the Project.

Section 4. Examination of Books and Records. All Mortgagees of individual Units shall have the right to examine the books and records of the Association.

Section 5. Priority on Distribution of Proceeds. No Owner or any other party shall have priority over any rights of any Mortgagees on an individual Unit pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Units and/or Common Areas.

Section 6. Notice of Condemnation. The Association shall provide written notice to all Mortgagees who have filed a written request for such notice with the Board on individual Units of any condemnation proceedings affecting the Project.

Section 7. Attendance at Meetings. Because of its financial interest in the Project, any Mortgagee may appear at meetings of the Owners or of the Board to draw attention to violations of this Declaration which have not been corrected or made the subject of remedial proceedings or assessments but may not vote at said meetings.

61
81-
No 242889

Section 8. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions contained in this Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Unit.

Section 9. Priority of this Article. If there is any conflict between the provisions of this Article and any other provision of this Declaration, the provisions contained in this Article shall control.

Section 10. Filing Notice. A Mortgagee shall be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees if such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage. Wherever the approval of all of a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those Mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including without limitation the

61 81-
Nº 242889

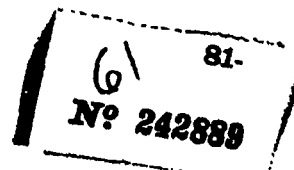
priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder, shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

ARTICLE XIII

DURATION AND AMENDMENT

Section 1. Duration. This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall automatically be extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded in the public records of San Diego County, California, meeting the requirements of an amendment to this Declaration as set forth in Section 2. of this Article. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant Membership in the Association, as long as this Declaration shall continue in full force and effect.

Section 2. Amendment. Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of Members of the Association. The resolution shall be adopted by approval of Owners in the aggregate owning not less than seventy-five percent (75%) of the voting power of the Association, provided, however, so long as there are still two classes voting, the Declaration may not



be amended without the vote or written consent of the prescribed percentage of both classes of membership. Further, this amendment provision shall not be amended to allow amendments by the assent or vote of less than seventy-five percent (75%) of the Owners. A copy of each amendment shall be certified by at least two (2) officers of the Association and the amendment shall be effective when the Certificate of Amendment is recorded in the public records of San Diego County, California.

Section 3. Protection of Declarant. Notwithstanding any other provision in this Declaration, the prior written approval of the Declarant, as developer of the Project, will be required before any amendment which would impair or diminish the rights of Declarant to complete the Project shall become effective.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Legal Proceedings. Failure to comply with any of the terms of this Declaration and regulations adopted pursuant thereto by an Owner, his guests, employees, customers, invitees or tenants, after compliance with the administrative procedures and remedies set forth herein and in the By-Laws of the Association shall be grounds for relief which shall include, without limiting same, an action to recover sums due for damages, injunctive relief may be sought by Declarant, the Board, or, if appropriate, by an aggrieved Owner. Failure to enforce any provisions hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof. Any Owner (not at the time in default hereunder) or Declarant shall be entitled to bring an action for damages against any defaulting Owner, and in addition may enjoin any violation of this Declaration. Any judgment rendered in any action or

proceeding pursuant thereto shall include a sum for attorneys' fees in such amount as the Court may deem reasonable in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. Each remedy provided for in this Declaration shall be cumulative and not exclusive or exhaustive.

Section 2. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or enforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provisions hereof.

Section 3. Interpretation. The provisions of this Declaration shall be liberally constructed to effectuate their purpose of creating a uniform plan for the creation and operation of a commercial Condominium development and for the maintenance of Common Areas, and any violation of this Declaration shall be deemed to be a nuisance. The Article and Section headings, title and captions have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. As used herein, the singular shall include the plural and the masculine, feminine and neuter shall mean the same.

Section 4. Construction and Sales by Declarant. Nothing in this Declaration shall limit and no Owner shall do anything which shall interfere with, the right of Declarant to alter any of the improvements on the Property, the Common Areas, and the Units owned by Declarant, or to construct such additional improvements as Declarant deems advisable prior to completion and sale of the last Condominium in the entire Project. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser from Declarant to

establish on the Project additional easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Project. Prospective purchasers and Declarant shall have the right to use all Common Areas for access to the sales facilities of Declarant. Declarant may use any Unit(s) owned by Declarant as sales offices or model complexes, and Declarant shall be entitled to the exclusive use of the facilities on the Common Areas, without costs, in order to dispose of the Project as provided herein. Declarant reserves the right to alter its plans and designs as it deems appropriate. Declarant need not seek or obtain the approval of the Board in connection with any improvement constructed or altered by Declarant in the Project.

Section 5. Use of Common Area Facilities. The Board shall have the reasonable right to establish additional reasonable restrictions on the time and manner of use of said Common Area facilities and to modify and amend same from time to time.

Section 6. Recordation of Notice of Breach. The Board may at any time that it deems a breach of the provisions of this Declaration has occurred, execute, acknowledge and record in the Office of the County Recorder of San Diego County, a Notice of Claim of Breach setting forth the facts of such breach, describing the Unit or Units upon which such breach has occurred and setting forth the name or names of the Owner or Owners thereof. Such notice, upon being recorded, shall be notice to all persons of such breach, provided an action has been commenced within sixty (60) days after the recording of such notice to establish such breach; if not such action shall have been commenced within such sixty (60) day period, then such notice shall be of no force and effect whatsoever, and the breach set forth in said notice shall be presumed to have been remedied.

61 81-
Nº 242889

Section 7. Violation Constitutes Nuisance. The result of every action or omission whereby any restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such result and may be exercised by the approving agent or by any Owner of property subject to these restrictions.

Section 8. Controlling Documents. If there occurs any question of ambiguity pertaining to an interpretation of this Declaration, the Articles of Incorporation or the By-Laws of the Association, this Declaration shall be considered the controlling document, and the terms and provisions shall prevail.

THIS DECLARATION has been executed on the date first written above.

INVESTCAL DEVELOPMENT CO.,
a California corporation

BY: William C. Dolan
William C. Dolan, Vice President

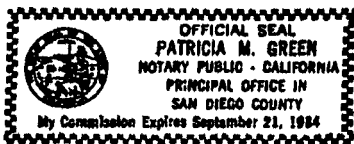
BY: Edward H. Sibbett
Edward H. Sibbett, Secretary

61 81-
Nº 242889

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On June 9, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared WILLIAM C. DOLAN, known to me to be the Vice President and EDWARD H. SIBBETT, known to me to be the Secretary of the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its By-Laws or a resolution of the Board of Directors.

WITNESS my hand and official seal.



Patricia M. Green

Notary Public in and for said State and County

61 81-
Nº 242889

EXHIBIT "A"

The Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 in the City of San Diego Industrial Park Unit No. 2., in the City of San Diego, County of San Diego, State of California, according to map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

61 81-
Nº 242889

EXHIBIT B

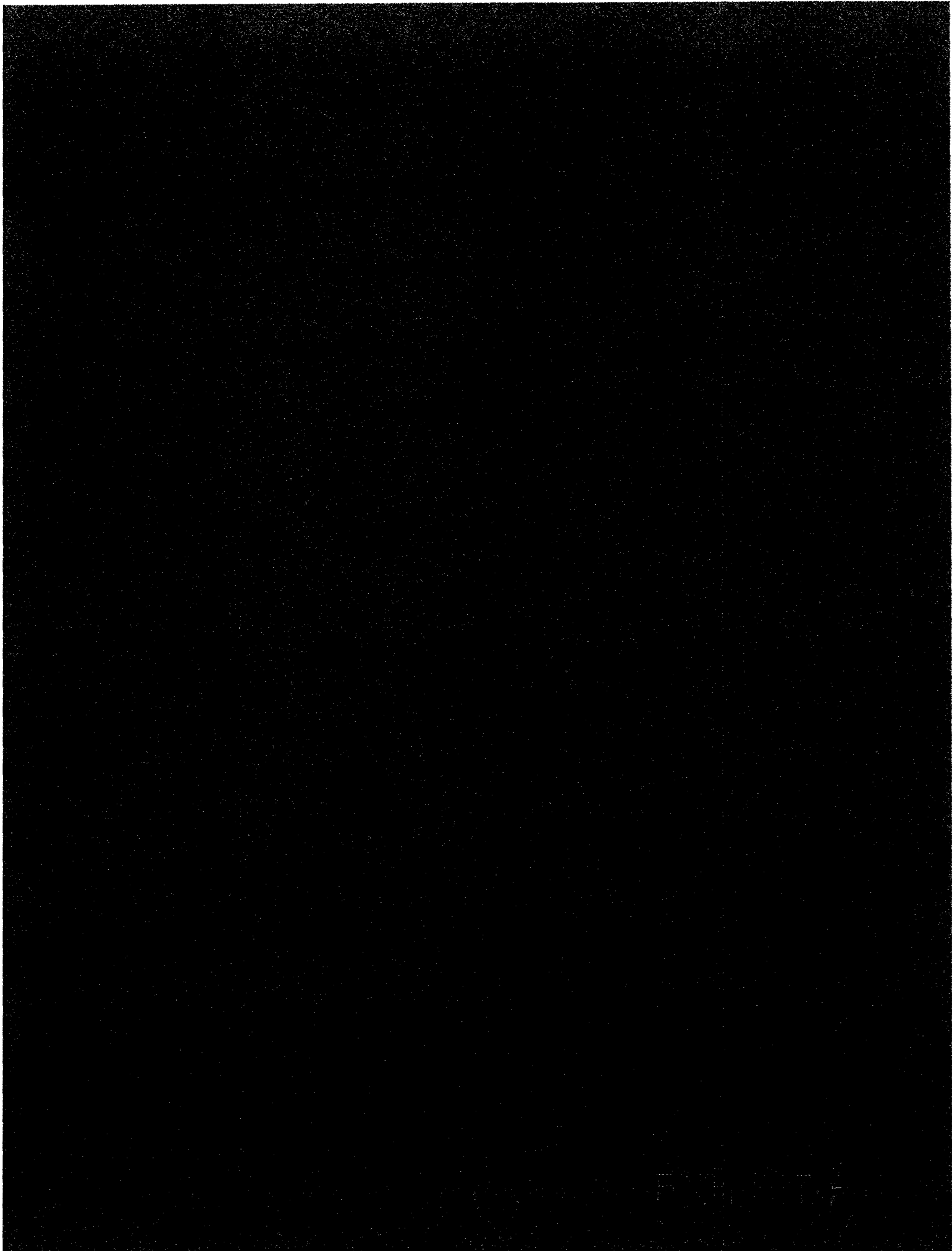
Bldg	Unit	Approximate	Approximate	Unit	Percentage Of Total Annual and Special Assessments Attributable to Unit
		Total Interior Square Footage	Interior Square Footage to Nearest 50 Square Feet		
8855:	A	488.44	500	10	1.3518
	B	543.02	550	11	1.485
	C	543.99	550	11	1.485
	D	487.47	500	10	1.351
	E	490.71	500	10	1.351
	F	489.69	500	10	1.351
	G	595.92	600	12	1.622
	H	486.17	500	10	1.351
8859:	A	943.71	950	19	2.568
	B	974.89	950	19	2.568
	C	963.68	950	19	2.568
	D	963.68	950	19	2.568
8861:	E	963.68	950	19	2.568
	A	942.24	950	19	2.568
	B	975.37	950	19	2.568
	C	971.96	950	19	2.568
8863:	D	974.40	950	19	2.568
	E	945.66	950	19	2.568
	A	940.30	950	19	2.568
	B	940.30	950	19	2.568
8865:	C	940.30	950	19	2.568
	D	940.30	950	19	2.568
	E	1048.45	1050	21	2.837
	A	486.50	500	10	1.351
8869:	B	544.96	550	11	1.485
	C	544.96	550	11	1.485
	D	486.50	500	10	1.351
	E	486.50	500	10	1.351
	F	544.96	550	11	1.485
	G	544.96	550	11	1.485
	H	486.50	500	10	1.351
	A	945.17	950	19	2.568
8871:	B	974.89	950	19	2.568
	C	974.40	950	19	2.568
	D	974.40	950	19	2.568
	E	940.78	950	19	2.568
8873:	A	964.66	950	19	2.568
	B	964.66	950	19	2.568
	C	964.66	950	19	2.568
	D	971.48	950	19	2.568
8873:	E	944.19	950	19	2.568
	A	961.73	950	19	2.568
	B	962.22	950	19	2.568
	C	962.22	950	19	2.568
	D	961.73	950	19	2.568
	E	961.73	950	19	2.568
		TOTAL		740	100%

61 81-
Nº 242889

EXHIBIT C

<u>Bldg</u>	<u>Unit</u>	<u>Votes Per Unit</u>	<u>Percentage of Total Annual and Special Restroom Assessments Attributable to Unit</u>
8855:	A	10	5.952%
	B	11	6.548
	C	11	6.548
	D	10	5.952
	E	10	5.952
	F	10	5.952
	G	12	7.144
	H	10	5.952
8865:	A	10	5.952
	B	11	6.548
	C	11	6.548
	D	10	5.952
	E	10	5.952
	F	11	6.548
	G	11	6.548
	H	10	5.952
TOTAL		168	100%

61 81-
Nº 242889



RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:
Montgomery Field Business Condominium Association
c/o Mr. Andy Menas
Menas Realty Company
4990 Mission Blvd.
San Diego, CA. 92109

RECORDED IN
OFFICIAL RECORDS
OF SAN DIEGO COUNTY, CA.

89 SEP 14 AM 10:45

VERA L. LYLE
COUNTY RECORDER

RF	8
AR	6
MG	1

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
MONTGOMERY FIELD BUSINESS CONDOMINIUM ASSOCIATION**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominium Association (hereinafter referred to as "First Amendment") is made with reference to the following facts:

A. On July 31, 1981, the Declaration of Covenants, Conditions and Restrictions for the Montgomery Field Business Condominium Association (hereinafter referred to as the "Declaration") was recorded by Investcal Development Company, a California corporation (hereinafter referred to as "Declarant") at File /Page 81-242889 of Official Records of San Diego County.

B. By this First Amendment, members representing at least seventy-five percent (75%) of the total voting power of the Association desire to amend certain provisions of the Declaration.

C. Article XIII, Section 2 of the Declaration provides that the Declaration may be amended from time to time by an instrument signed by members representing at least seventy-five percent (75%) of the total voting power of the Association.

D. Each of the definitions contained in this First Amendment shall be the same as those set forth in the Declaration except where such term is specifically deleted, amended or modified herein.

No: 495903

NOW, THEREFORE, pursuant to and in accordance with the provisions of Article XIII, Section 2 of the Declaration, the Declaration is hereby amended in the following respects:

1. Article VI, Section 1 of the Declaration is hereby amended to add paragraphs as follows:

DEFINITION OF RETAIL ACTIVITY

"Retail activity" refers to establishments or places primarily engaged in the sale or rental of tangible goods or merchandise to the public.

As used herein, the term "retail activity" shall include all those uses set forth in the then current Business Category Listing for Single Owners and for Corporations as determined and promulgated within the "RETAIL" section by the City of San Diego Business Taxes Division. For purposes of this section, the City of San Diego Business Category Listing at the time the Board adopts this amendment shall be utilized for said definitional purposes. The current Business Category Listing is included as part of this amendment (ref pgs 4 & 5). If the City of San Diego adopts new or additional business uses to be included within the "RETAIL" category, then such new additional business uses shall become a part of the current listing. Further, the term "retail activity" shall specifically include, but shall not be limited to, any food establishment, drinking establishment, and any sale of groceries, deli goods, bakery goods and liquor of any kind within the "office units." The "office units" are commonly known as 8855 and 8865 Balboa Ave., San Diego, CA.

All such "retail activity" shall be strictly prohibited by this Declaration and any such prohibited use, which is currently in existence shall terminate immediately, or no later than the expiration of any bona fide lease in existence at the time the Board adopts this amendment.

Any questionable retail uses shall be brought to the attention of the Board for clarification prior to any execution of the lease.

No
495903

2. Article VI, Section 4 (SIGNS) of the Declaration is hereby amended to add a paragraph as follows:

All signs, posters, displays or other advertising devices of any character shown or displayed on any building, structure, window, door or on any common area shall require the prior approval of the Board. In determining whether such sign or display meets the criteria and conforms to the general scheme of the Project, the Board shall consider the standards set forth in Article VII, Section 2. Any such submittal to the Board for approval shall also conform to the requirements of Article VII, Section 1. The Board shall specify by Board resolution the size, shape, color, finish, design and type of a standard door sign, which shall be uniformly applied within the Project on the front doors of all units. Such standard door signs, which fully satisfy the requirements of said Board specifications shall not require any additional Board approval.

FOR LEASE AND FOR SALE SIGNS

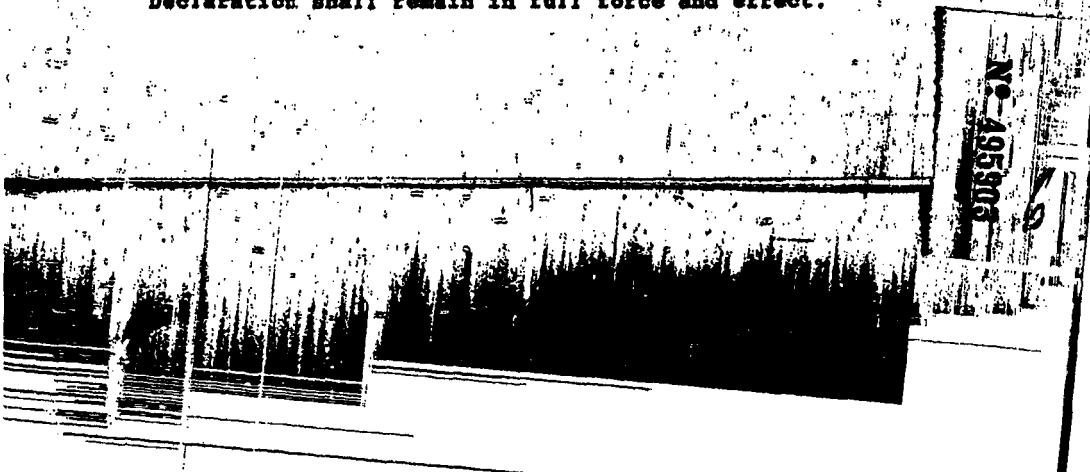
When necessary, each owner is allowed to display no more than two professionally prepared "for lease" or "for sale" signs upon the common area. One sign may be placed in the planter area in front of the complex facing Balboa Ave. The size of this sign shall not exceed two feet by three feet by 1/4 inch thick. The maximum height (from the ground) of this sign is six feet. A second "for lease" or "for sale" sign may be placed upon the exterior of the unit being advertised. This sign shall not exceed 1.5 ft. by 2.0 ft. by 1/4 in. thick. Any sign considered unaesthetic by the Board of Directors may be prohibited for use on the Common area.

3. Article XIV, Section 3 of the Declaration is hereby amended to add a paragraph as follows:

BOARD OF DIRECTORS MANAGEMENT AUTHORITY

The Board shall have the discretionary management authority to make determinations as to violations of this Declaration. Further, all covenants and restrictions in this Declaration shall, in addition to any other remedy available, be enforceable as equitable servitudes and shall be deemed appropriate, unless proven unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the Project. These covenants and restrictions may be enforced by any owner of a separate interest or by the Association.

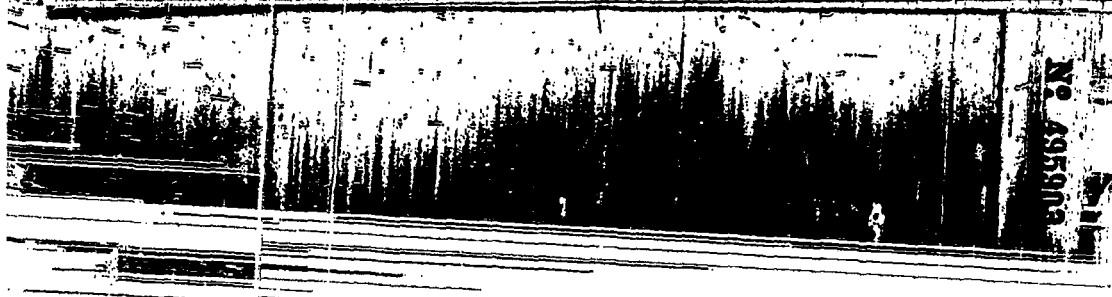
4. Except as modified in this First Amendment, the Declaration shall remain in full force and effect.



BUSINESS CATEGORY LISTING -- For SINGLE OWNERS Only

In order for us to process your Business Tax Declaration, it is necessary that you select your Principal Business Activity Code from the list below. Please enter your selected number on space #18 of your Declaration form.

<p>RETAIL (Single Owners)</p> <p><i>Selling goods to individuals and households</i></p> <p>3012 Retail DOOR-TO-DOOR</p> <p>3020 Aerial MAIL ORDER</p> <p>3023 As of by VENDING MACHINE</p> <p><i>Selling from store, storefront or other fixed location:</i></p> <p>3070 EATING PLACE</p> <p>3080 D WINEY PLACE</p> <p>3010 Retail GROCERY</p> <p>3012 S MEWY selling at retail</p> <p>3020 Retail OTHER FOOD</p> <p>3051 FASHION LIQUOR STORE</p> <p>3077 Retail DRUG STORE</p> <p><i>Automobile and service stations</i></p> <p>3210 NEW CAR dealer franchise</p> <p>3220 USED CAR dealer franchise</p> <p>3217 Used OTHER AUTOMOTIVE</p> <p>3230 Auto TIRE, ACCESS, PARTS</p> <p>3250 GASOLINE SERVICE STATION</p> <p><i>General merchandise, apparel, and furniture</i></p> <p>3710 Retail VARIETY STORE</p> <p>3720 Retail OTHER GEN. MERCH.</p> <p>3730 Retail SHOES</p> <p>3770 Retail MEN'S, BOY'S CLOTHING</p> <p>3780 Retail WOMEN'S CLOTHING</p> <p>3790 Retail FAMILY CLOTHING</p> <p>3804 Retail OTHER APPAREL, ACCESS.</p> <p>3700 Retail FURNITURE STORE</p> <p>3800 Retail TV, A.V., ELECTRONICS</p> <p>4120 Retail HOUSEHOLD APPLIANCES</p> <p>4017 Retail OTHER HOME FURNISHINGS</p> <p>4020 Retail MUSIC OR RECORDS</p> <p><i>Building, hardware and garden supplies</i></p> <p>4413 Retail BUILDING MATERIALS</p> <p>4422 Retail PAINT, GLASS, WALLPAPER</p> <p>447 Retail HARDWARE</p> <p>4473 Retail GARDEN SUPPLIES</p> <p><i>Other Retail Stores</i></p> <p>4614 Retail USED MERCH. ARTICLES</p> <p>4620 Retail OPTS, NOVELTIES, SOUVENIRS</p> <p>4630 Retail FLOWERS</p> <p>4671 Retail JEWELRY</p> <p>4700 Retail SPORTING GOODS</p> <p>4720 Retail BOATS</p> <p>4730 Retail HORSES, TOYS, GAMES</p> <p>4800 Retail CAMERA, PHOTO SUPPLY</p> <p>4870 Retail OPTICAL GOODS</p> <p>4880 Retail LUBRICATION, LEATHER</p> <p>4890 Retail BOOKS (not hardware)</p> <p>5000 Retail STATIONERY</p> <p>5020 Retail FRINGE, NEEDLEWORK</p> <p>5074 Retail MOBILE HOMES</p> <p>5080 Retail FUEL, HOT GASOLINE</p> <p>5084 OTHER RETAIL</p> <p>SERVICES (Single Owners)</p> <p><i>Laundry and cleaning services</i></p> <p>7410 COIN-OP LAUNDRY, DRY CLEAN</p> <p>7420 OTHER LAUNDRY, CLEANING</p> <p>7430 CARPET, UPHOLSTERY CLEAN</p> <p>7490 JANITORIAL RELATED SERVICE</p>	<p><i>Business and Personal Services</i></p> <p>7017 LEGAL SERVICE</p> <p>7023 INCOME TAX PREPARATION</p> <p>7026 ACCOUNTING, BOOKKEEPING</p> <p>7034 ENGINEERING, SURV. ARCH.</p> <p>7038 MGMT. CONSULT. PUBLIC RELAT.</p> <p>7710 ADVERTISING (not direct mail)</p> <p>7720 EMPLOYMENT, PERSONNEL SERVICE</p> <p>7757 COMPUTER, DATA PROCESSING</p> <p>7773 EQUIP. RENTAL, (exc. comm. auto)</p> <p>7814 MISC. PROTECTIVE SERVICES</p> <p>7820 OTHER BUSINESS SERVICE</p> <p>8110 REALTY SHOP (or REALTY/COMM)</p> <p>8116 BARBER SHOP (or BARBER)</p> <p>824 PHOTOGRAPHY PORTRAIT STUDIO</p> <p>8410 SHOE REPAIR AND SHOE SERVICES</p> <p>8532 FUNERAL SERVICES/CHRYSTALINIS</p> <p>857 PHYSICAL FITNESS FACILITIES</p> <p>8714 CHILD DAY CARE</p> <p>8720 TEACHING or TUTORING</p> <p>8725 COUNSELING (not health prof.)</p> <p>8771 MINISTERS AND CHAPLANS</p> <p>8802 OTHER PERSONAL SERVICES</p> <p>8813 AUTO RENTAL, WITHOUT DRIVER</p> <p>8820 PARKING LOT VALET</p> <p>8824 GENERAL AUTO REPAIR</p> <p>8870 SPECIALIZED AUTO REPAIR</p> <p>8880 OTHER AUTOMOTIVE SERVICE</p> <p><i>Repair</i></p> <p>8916 TV, AUDIO EQUIPMENT REPAIR</p> <p>8920 OTHER ELEC. EQUIP. REPAIR</p> <p>8922 UPHOLSTERY, FURN. REPAIR</p> <p>894 OTHER EQUIPMENT REPAIR</p> <p><i>Medical and Health Services</i></p> <p>8017 PHYSICIAN, SURGEON</p> <p>8023 DENTIST</p> <p>8026 OPTOMETRIC PHYSICIAN, SURGEON</p> <p>8074 CHIROPRACTOR</p> <p>8076 OPTOMETRIST</p> <p>8078 REGISTERED, PRACTICAL NURSE</p> <p>8081 OTHER LIC. HEALTH PRACTITIONER</p> <p>8082 GENERAL LABORATORY</p> <p>8072 NURSING, PERSONAL CARE FACILITY</p> <p>8084 CLINIC, OTHER HEALTH SERVICE</p> <p><i>Amusement/Recreational Services</i></p> <p>8013 VIDEOTAPE RENTAL STORE</p> <p>8020 MOTION PICTURE THEATER</p> <p>8024 OTHER MOVIE, TV ACTIVITY</p> <p>8070 BOWLING ALLEY, POOL PARLOR</p> <p>8080 PROF. SPORTS OR PROMOTOR</p> <p>8071 PERFORMER, MUSICIAN, RELATED</p> <p>807 OTHER AMUSEMENT, RECREATION</p> <p>WHOLESALE (Single Owners)</p> <p>2010 WHOLESALE DURABLE GOODS</p> <p>204 WHOLESALE DURABLE GOODS (agent or broker)</p> <p>200 WHOLESALE NON-DURABLE GOODS</p> <p>207 WHOLESALE NON-DURABLE GOODS (agent or broker)</p> <p>CONSTRUCTION (Single Owners)</p> <p>0910 CONSTRUCTION</p> <p>0914 RES. GENERAL CONTRACTOR</p> <p>0916 HOME, GENERAL CONTRACTOR</p> <p>0918 STREET GENERAL CONTRACTOR</p> <p>0920 HEAVY CONSTRUCTION CONTR.</p> <p>092 PLUMB, HEAT, AC CONTRACTOR</p>	<p>097 PAINT, PAPER HANG CONTRACT</p> <p>0973 ELECTRICAL CONTRACTOR</p> <p>0980 PLASTER, TILE CONTRACTOR</p> <p>0914 FLOOR, CARPENTER CONTRACTOR</p> <p>0920 ROOF, SHEET METAL CONTRACTOR</p> <p>0920 CONCRETE CONTRACTOR</p> <p>0971 WELL DRILLING CONTRACTOR</p> <p>0985 OTHER BLDG TRADE CONTRACTOR</p> <p>FINANCIAL (Single Owners)</p> <p>3010 REAL ESTATE AGENT, BROK.</p> <p>3020 BLDG OPERATOR, LESSOR</p> <p>3025 OTHER REAL PROP. OPER. LESSOR</p> <p>3710 REAL ESTATE DEVELOPER</p> <p>3720 INSURANCE AGENT, SERVICE</p> <p>3791 SECURITIES INVESTMENTS</p> <p>3777 OTHER REAL EST., FINANCIAL</p> <p>TRANSPORTATION/UTILITIES (Single Owners)</p> <p>0114 TAXICAB</p> <p>0212 BUS, LIMOUSINE TRANSPORT</p> <p>0220 TRUCKING, NOT TRASH COLL.</p> <p>0910 TRASH COLL. W/O DRIP</p> <p>0920 PUBLIC WAREHOUSES</p> <p>0921 WATER TRANSPORTATION</p> <p>0940 AIR TRANSPORTATION</p> <p>0950 TRAVEL AGENT, TOUR OPER.</p> <p>0950 OTHER TRANSPORTATION SERV.</p> <p>0970 COMMUNICATION SERVICE</p> <p>098 UTILITY</p> <p>MANUFACTURING (Single Owners)</p> <p>0912 (EXCEPT BILLING AT RETAIL)</p> <p>0920 MANUF. OTHER FOOD PRODUCTS</p> <p>0920 MANUF. TEXTILE MIL PROD</p> <p>0970 MANUF. APPAREL, OTHER TEXTILE</p> <p>0980 MANUF. LEATHER PRODUCTS</p> <p>0980 OTHER MANUF. INDUSTRY</p> <p>0920 MANUF. LUMBER, WOOD PROD</p> <p>0921 PRINTING AND PUBLISHING</p> <p>0977 MANUF. PAPER, ALLED PROD</p> <p>0980 MANUF. RUBBER, PLASTIC PROD.</p> <p>0980 MANUF. STONE, CLAY, GLASS</p> <p>097 PRIMARY METAL INDUSTRY</p> <p>0973 MANUF. FABRICATED METAL</p> <p>0980 MANUF. MACHINERY, MACH. SHOP</p> <p>0980 MANUF. ELECTRIC, ELECTRONICS</p> <p>0920 MANUF. TRANSPORTATION RELATED</p> <p>0980 MANUF. FURNITURE, RELATED</p> <p>0980 OTHER MANUF. INDUSTRY</p> <p>AGRICULTURAL (Single Owners)</p> <p>0920 VETERINARY SERVICE</p> <p>0920 OTHER ANIMAL SERVICE</p> <p>0910 FARM LABOR, WAGE SERVICE</p> <p>0920 HORTICULTURE, LANDSCAPING</p> <p>0980 MANUF. LUMBER, WOOD PRODUCTS</p>
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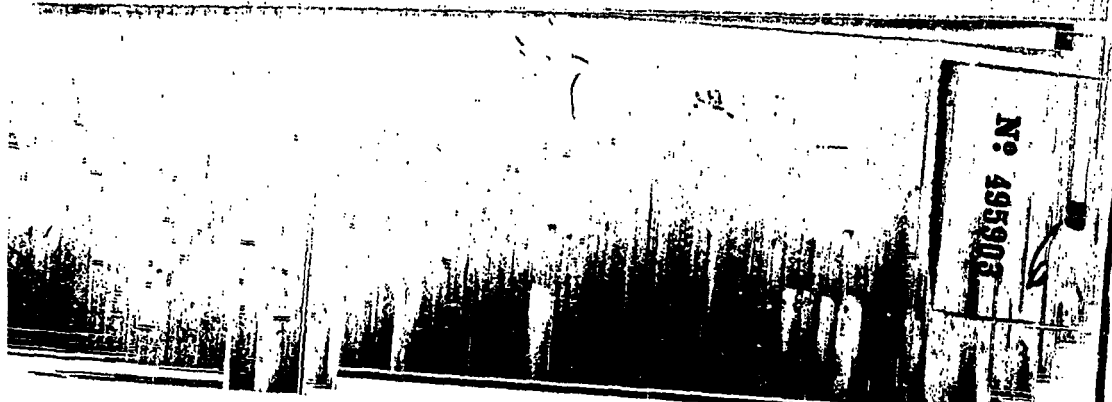


BUSINESS CATEGORY LISTING — For CORPORATIONS Only

In order for us to process your Business Tax Declaration, it is necessary that you select your Principal Business Activity Code from the list below. Please enter your selected number on space #15 of your Declaration form.

RETAIL (Corporations)	WHOLESALE ALCOHOLIC BEV	MANUF METALWORKING MACH
Building materials, garden supplies, mobile home dealers.	WHOLESALE MISC NON-DURABLE	MANUF SPE INDUSTRY MACH
5220 Retail BUILDING MATERIALS	MANUFACTURING (Corporations)	MANUF GEN INDUSTRIAL MACH
5231 Retail HARDWARE	Food and kindred products	MANUF OFFICE COMPUTE MACH
5232 Retail GARDEN SUPPL, MOB HOME	2010 MANUF MEAT PRODUCTS	2020 MANUF OTHER MACH NOT ELEC
5233 Retail GENERAL MERCHANDISE	2020 MANUF DAIRY PRODUCTS	Electrical and electronic equip.
Food Stores	2030 MANUF FRUITS AND VEG	3000 MANUF HOUSEHOLD APPLIANCES
5410 Retail GROCERIES	2040 MANUF GRAIN MILL PRODUCTS	3020 MANUF RADIO, TV, COMMUNICATION
5430 Retail OTHER FOOD	2050 MANUF BAKERY PRODUCTS	3070 MANUF ELECTRONIC COMPONENT
Automotive dealers and service stations	2060 MANUF CONFECTIONERY PROD	3080 MANUF OTHER ELEC EQUIPMENT
5515 MOTOR VEHICLE DEALER	2070 MANUF MALT, MALT LIQUOR	3710 MANUF MOTOR VEHICLE, SOUP
5541 GASOLINE SERVICE STATION	2080 MANUF ALCOHOL BEV, NOT MALT	Transportation equip, exc. motor veh.
5900 OTHER AUTOMOTIVE DEALER	2090 MANUF BOTTLED SOFT DRINKS	3720 MANUF AIRCRAFT
Apparel and accessory stores	2100 MANUF OTHER FOOD PRODUCTS	3730 MANUF REPAIR SHIPS, BOATS
5600 Retail APPAREL, ACCESSORIES	2110 MANUF TOBACCO	3790 MANUF TRAMP SOUP NOT UN
Furniture and home furnishings	Textile Mill Products	Instruments and related products
5700 Retail FURNITURE, FURNISH	2220 WEAVING MILL	3815 RETAIL VARIETY STORE
Bed and breakfast places	2230 KNOTTING MILL	3840 MANUF OPTICAL, MED GOODS
5801 EATING, DRINKING PLACE	2290 MANUF OTHER TEXTILE PROD	3880 MANUF PHOTOGRAPHIC EQUIP
Misc. retail stores	Apparel and other textile prod	3890 MANUF OTHER PRODUCTS
5791 Retail FURNITURE	2320 MANUF MEN'S, BOYS' CLOTHING	CONSTRUCTION (Corporations)
5801 Retail LIQUOR STORE	2340 MANUF WOMEN'S, CHILD CLOTHING	1510 GENERAL BLDG CONTRACTOR
5891 OTHER RETAIL	2390 MANUF OTHER APPAREL	1531 OPERATIVE BUILDER
SERVICES (Corporations)	2400 MANUF MISC TEXTILE PRODUCTS	1600 HEAVY CONST. CONTRACTOR
Personal Services	Leather and wood products	1711 PLUMB, HEAT, AC CONTRACTOR
7230 PERSONAL SERVICE	2410 LOGGING, SAWMILL, PLANING	1731 ELECTRICAL CONTRACTOR
Business Services	2430 MANUF MILLWORK, PLYWOOD	1790 OTHER SPEC CONTRACTOR
7100 ADVERTISING	2490 MANUF OTHER WOOD PRODUCTS	FINANCIAL (Corporations)
7120 BUSINESS SERVICE (exc. Advertis)	2500 MANUF FURNITURE, FIXTURES	Banking
Auto and auto. repair	Paper and allied products	6000 MUTUAL SAVINGS BANK
7300 AUTO REPAIR AND SERVICE	2600 MANUF PULP, PAPER BOARD	6010 BANK HOLDING COMPANY
7400 MISC. REPAIR SERVICE	2690 MANUF OTHER PAPER PROD	6020 BANK, NOT MUF SAV OR HOLD
Amusement and recreation	Printing and Publishing	Credit agencies, not banks
7812 MOTION PICTURE SERVICE	2710 NEWSLETTER PUBLISHING	6120 SAVING & LOAN ASSN
7830 MOTION PICTURE THEATER	2720 PERIODICAL PUBLISHING	6140 PERSONAL CREDIT INST.
7900 AMUSEMENT, REC NOT MOVIES	2730 BOOK, GREETING CARD PUBLISH	6150 BUSINESS CREDIT INST.
Other services	2790 PRINTING SERVICE	6190 OTHER CREDIT AGENCY
8015 PHYSICIAN OFFICE	Chemicals and allied products	Security, Guaranty, Insurers
8040 OTHER HEALTH PRACTITIONER	2810 MANUF INDUS CHEM, PLASTICS	6210 SECURITIES, FLUCTUATION
8050 NURSE, PERS CARE FACILITY	2820 MANUF DRUGS	6290 COMPOSITE SECURITIES
8090 HOSPITAL	2840 MANUF SHAM, CLEANSERS	Insurance
8091 MEDICAL LABORATORY	2890 MANUF PAINTS, ALLIED PROD	6300 LIFE INSURANCE
8092 OTHER MEDICAL SERVICE	2900 MANUF AGRIC, OTHER CHEM PROD	6310 MUTUAL INSURANCE, exc. LIFE
8111 LEGAL SERVICE	Petroleum refining and related	6320 OTHER INSURANCE COMPANY
8200 EDUCATIONAL SERVICE	2910 PETROLEUM REFINING	6411 INSURANCE AGENT, BROKER
8300 SOCIAL SERVICE	2920 MANUF OTHER PETROLEUM PROD	Real Estate
8400 MEMBERSHIP ORGANIZATION	Rubber and other plastic products	6511 REAL ESTATE BROKER
8511 ENGINEERING, ARCHITECTURAL	2930 MANUF RUBBER, PLASTICS	6512 BROKER, OIL LESSEE
8590 ACCOUNTING, AUDIT, BOOKKEEP.	2970 MANUF MISC PLASTICS PROD	6518 RAILROAD, OTHER LESSEE
8600 MISCELLANEOUS SERVICE	Leather and leather products	6520 COOPERATIVE HOUSING ASSN
WHOLESALE (Corporations)	3140 MANUF FOOTWEAR, NOT RUBBER	6530 REAL ESTATE DEVELOPER
Durable Goods	3160 MANUF OTHER LEATHER PROD	6590 OTHER REAL ESTATE
3000 WHOLESALE MACH, SOUP	Stones, clay and glass products	Other Investment Cos
3010 WHOLESALE AUTOMOTIVE	3200 MANUF STONE, CLAY, GLASS	6740 REGULATED INVESTMENT CO.
3020 WHOLESALE FURNITURE	3240 MANUF CEMENT, HYDRAULIC	6745 REAL ESTATE INVESTMENT TRUST
3030 WHOLESALE CONST. MAT	3290 MANUF CONCRETE, PLASTER	6746 SMALL BUSINESS INVESTMENT
3040 WHOLESALE SPORTING HOBBY	3295 MANUF OTHER NONMETALLIC MIN	6748 HOLDING, INVESTMENT, NOT BANK
3050 WHOLESALE METALS, MINERALS	Primary metal industries	TRANSPORTATION/UTILITIES
3060 WHOLESALE ELECTRICAL GOODS	3370 MANUF MISC PRIMARY METALS	Corporations
3070 WHOLESALE HARDWARE, PLUMB.	3390 MANUF NON FERROUS METALS	4000 RAILROAD TRANSPORTATION
Non-durable goods	Fabricated metal products	4100 LOCAL, INTERURBAN PASS TRANSP
3110 WHOLESALE NON-DURABLE GOODS	3410 MANUF CANN, CONTAINERS	4200 TRUCKING, WATERWAYS
3120 WHOLESALE DRUGS, CHEMICALS	3420 MANUF HARDWARE, RELATED	4300 WATER TRANSPORTATION
3130 WHOLESALE APPAREL, NOTIONS	3430 MANUF PLUMB, HEAT NOT ELEC	4400 TRANSPORTATION BY AIR
3140 WHOLESALE GROCERIES	3440 MANUF FAB STRUCTURAL METAL	4500 PIPELINE, EXC NATURAL GAS
3150 WHOLESALE FARM RAW MAT	3490 MANUF METAL, POWDER	4700 MISC TRANSPORTATION SOC
3160 WHOLESALE CHEMICALS, ALLIED	3520 COATING, ENAMELING, ALLIED	4800 COMMUNICATION SERVICE
3170 WHOLESALE PETROLEUM PROD	3540 MANUF ORDNANCE, ACCESSORIES	4810 RADIO, TELEVISION BROADCAST
	3590 MANUF MISC FAB METAL PROD	4910 ELECTRIC SERVICE
	Textile, exc. clothing	4920 GAS PIPING, DISTRIBUTION
	3600 MANUF FIBER MACHINERY	4930 COMM UTILITY SERVICE
	3690 MANUF CONSTRUCTION MACH	4990 WATER SUPPLY, OTH SAN SERV

7-1989 (Rev. 7-89)



IN WITNESS WHEREOF, the Declarant has executed this First Amendment this 15 day of Sept. 1989.

MONTGOMERY FIELD BUSINESS CONDOMINIUM ASSOCIATION

By: [Signature]
Its President

By: [Signature]
Its Secretary

STATE OF CALIFORNIA)
 } ss
COUNTY OF SAN DIEGO)

On 9/13, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Philip C. Blair and Larry Peterson personally known to me (or proved to be on the basis of satisfactory evidence) to be the persons who executed the within instrument as Philip C. Blair President and Larry Peterson Secretary, on behalf of the MONTGOMERY FIELD BUSINESS CONDOMINIUM ASSOCIATION, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its By-Laws or a Resolution of its Board of Directors.

WITNESS by hand and official seal.

Signature [Signature]



Nº 495903

2015年11月

2650

DOC # 1999-0582901

AUG 24, 1999 9:28 AM

RECORDING REQUESTED BY
Carl H. Starrett II, Esq.
ANDERSON & KRIGER

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 14.00

WHEN RECORDED MAIL TO:

Montgomery Fields Business
Condominium Association
c/o Associated Professional Services
P.O. Box 120737
San Diego, CA 92112-0737



Space Above for Recorder's Use

**SECOND AMENDMENT TO DECLARATION OF RESTRICTIONS OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR:**

**MONTGOMERY FIELDS BUSINESS
CONDOMINIUMS ASSOCIATION**

THIS AMENDMENT TO DECLARATION OF RESTRICTIONS was approved by a written ballot sent to the entire membership of MONTGOMERY FIELDS BUSINESS CONDOMINIUM ASSOCIATION.

WITNESSETH

WHEREAS, MONTGOMERY FIELDS BUSINESS CONDOMINIUM ASSOCIATION, a California non-profit corporation, has responsibility for the management and control of certain real property located in San Diego County State of California, which is more particularly described as:

The Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 in the City of San Diego Industrial Park Unit No. 2., in the City of San Diego, County of San Diego, State of California, according to map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

WHEREAS, said property is subject to certain covenants, conditions, restrictions, reservations, liens and charges as set forth in the Declaration of Covenants, Conditions and Restrictions for MONTGOMERY FIELDS BUSINESS CONDOMINIUM ASSOCIATION, executed by Investcal Development Company, a California corporation and recorded on July 31, 1981 as File/Page No. 81-242889 in the Office of the County Recorder of San Diego County and as subsequently amended.

WHEREAS, XIII, Section 2 of said Declaration provides that they may be amended at any time by an instrument in writing approved by owners of at least seventy five percent (75%) or more

of the Units located on the real property, which said written instrument shall become effective upon recording of the same in the County Recorder's Office of the County of San Diego, California.

NOW, THEREFORE, the Association hereby declares that the Declaration shall be amended as follows:

Article IV, Section 3 is deleted in its entirety and the following is substituted in its place:

Section 3. Repair and Maintenance of the Units by Owners. Except to the extent that the Association is obligated herein to maintain a portion of a Unit, each owner shall maintain, repair, replace and restore all portions of his Unit including, without limitation, the heating and air conditioning components. Notwithstanding any provisions in this Declaration to the contrary, the Owner shall also maintain, repair, replace and restore all heating and air conditioning components located outside the Unit, including but not limited to heating and air-conditioning ducts, shafts, piping, chutes, conduits and wires. Additionally, each Owner shall keep and maintain the interior walls, ceilings, windows, floors and doors in a clean, sanitary and attractive condition. All such repairs and maintenance pursuant to this Section shall be subject to the rules therefore as the Association may from time to time establish. With respect to window glass, each Owner shall be responsible and shall pay for the cleaning and the repair and replacement of all window glass.

CERTIFICATION OF PRESIDENT

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting President of MONTGOMERY FIELDS BUSINESS CONDOMINIUMS ASSOCIATION, a California nonprofit corporation; and

2. That on JULY 15, 1999, a written ballot of the membership was concluded at which time seventy five percent (75%) or more of the membership voted in favor of the amendment to the Declaration of Restrictions which is contained in this document.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12 day of August, 1999.

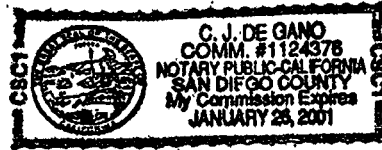

 President, MONTGOMERY FIELDS BUSINESS
 CONDOMINIUMS ASSOCIATION

ACKNOWLEDGMENT

State of California)
) s.s.
County of San Diego)

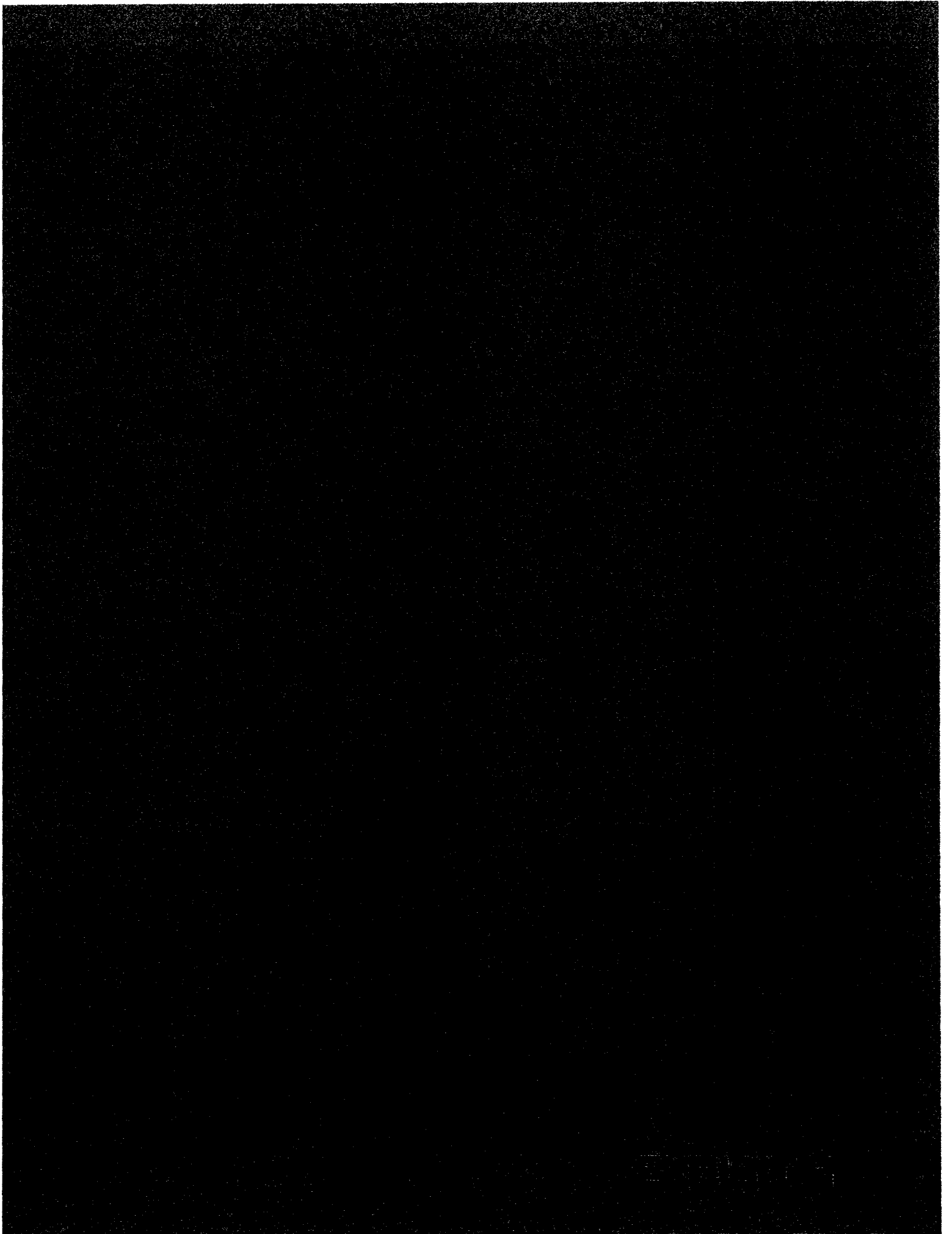
On August 12, 1999 before me, C. J. De Gano, a Notary Public in and for said County and State, personally appeared William R. Moore, personally known to me (or proved on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



C. J. De Gano

[Seal]



CERTIFICATE OF BOARD PRESIDENT AND SECRETARY

OF

MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION

A California Nonprofit Mutual Benefit Corporation

We, the undersigned, do hereby certify:

That we are the duly elected President and Secretary, respectively, of Montgomery Field Business Condominiums Association, a California non-profit, mutual benefit corporation.

That the foregoing 2015 Amendment to Article VI of the "Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums," recorded on July 31, 1981 in the Official Records of the San Diego County Recorder as Document No. 81-242889, was approved by a majority vote of the membership on February 13, 2015 and was recorded on NA, 2015 as Document No. 2015-NA in the Official Records of San Diego County, California, and affects the real property legally described in Exhibit A to the 2015 Amendment.

MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION
a California nonprofit mutual benefit corporation

By: *Dan Burakowski*
DAN BURAKOWSKI, President

By: *Edward Quinn*
Edward Quinn, Secretary

DOC# 2015-0093872



Mar 02, 2015 01:34 PM

OFFICIAL RECORDS
Ernest J. Dronenburg, Jr.,
SAN DIEGO COUNTY RECORDER
FEES: \$35.00

Recording Requested By:

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

When Recorded, Return To:

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION
c/o Epstein Grinnell & Howell APC
10200 Willow Creek Rd., Suite 100
San Diego, California 92131

7/2
10/12

**2015 AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION**

**NOTICE
(Govt. Code §12956.1)**

**IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON
RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY,
GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS,
MARITAL STATUS, DISABILITY, GENETIC INFORMATION,
NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN
SUBDIVISION (P) OF SECTION 12955, OR ANCESTRY, THAT
RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING
LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO
SECTION 12956.2 OF THE GOVERNMENT CODE. LAWFUL
RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF
OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER
PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED
ON FAMILIAL STATUS.**

THIS AMENDMENT is made on this 13th day of February, 2015, by MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, a California nonprofit mutual benefit corporation ("Association"), with reference to the following:

RECITALS

A. The Association is a corporation whose Members are the Owners of all the Office Units and Industrial Units within that certain real property in the City of San Diego, County of San Diego, State of California, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "Property").

B. The Property was developed in part as a "Commercial or Industrial Common Interest Development" as defined in section 6531 of the California Civil Code, and as a "Condominium Project" as defined in section 6542 of the California Civil Code, and currently consists of Office Units, Industrial Units and Exclusive Use Areas as shown on the "Condominium Plan" recorded July 31, 1981 as Document No. 81-242888 in the San Diego County Recorder's Office.

C. The Property is currently subject to the covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, liens and charges set forth in the "Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums" recorded on July 31, 1981 in the Official Records of the San Diego County Recorder as Document No. 81-242889 ("Declaration"), and all amendment thereto, including but not limited to the First Amendment to Declaration recorded September 14, 1989 as Document No. 1989-495903, and the Second Amendment to Declaration recorded on August 24, 1999, as Document No. 1999-0582901.

D. The Association and its Members desire to amend the Declaration as set forth below. By this 2015 Amendment, members representing at least seventy-five percent (75%) of the total voting power of the Association desire to amend certain provisions of the Declaration.

E. Article XIII, Section 2 of the Declaration provides that the Declaration may be amended from time to time by an instrument signed by members representing at least seventy-five percent (75%) of the total voting power of the Association.

F. The undersigned President and Secretary of the Association certify that at the time the ballots were counted the number of members in good standing and entitled to vote on matters related to the Association at the Special Meeting was 740. The undersigned President and Secretary of the Association certify that, to the best of their knowledge, the affirmative vote or written consent of at least the required percentage of Association Members has been obtained. The vote was 660 in favor of approval and 40 disapprovals, a total of 700 ballots were submitted out of total possible 740 eligible voters;

F. Each of the definitions contained in this 2015 Amendment shall be the same as those set forth in the Declaration except where such term is specifically deleted, amended or modified herein.

G. Notwithstanding any other provisions in the Declaration, the provisions of this Amendment shall apply and shall prevail in any inconsistency between this Amendment and the Declaration.

NOW, THEREFORE, pursuant to and in accordance with the provisions of Corporations Code Section 7513 and Article XIII, Section 2 of the Declaration, the Declaration is hereby amended as stated below:

Article VI, of the Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums, shall be amended to add the following language to the "Use Restrictions":

Section 20. Cultivation, Manufacture, Possession, Processing, Sale and/or Distribution of Marijuana Prohibited. The Association hereby implements a program to prohibit the use of Units for the consumption, cultivation, manufacture, processing, possession, sale and/or distribution of marijuana and/or cannabis-related or -containing products ("Marijuana Activities") and/or the operation of a medical marijuana collective, a medical marijuana cooperative, or a medical marijuana dispensary (collectively "Medical Marijuana Distributors"). The Association and its members have determined the following:

(a) Restrictive covenants pertaining to private land use (CC&Rs) are permitted to be more restrictive than public laws and zoning uses. *Mullaly v. Ojai Hotel Co.* (1968) 266 CA2d 9. To the extent such uses are permitted by law, the owners of this development have determined to make clear their desire to prevent uses which may otherwise be permissible at law. Accordingly, while Article VI, Sections 1 and 16, of this Declaration likely provide the Association with independent and adequate authority to restrict any and all activity related to marijuana, the threat posed by the possible presence of persons or businesses geared to Marijuana Activities or operations of Medical Marijuana Distributors, warrants additional clarity in this Declaration and the owners accordingly wish to prohibit all such activities to the greatest possible extent;

(b) Marijuana Manufacture, Cultivation, Possession and Distribution violates federal law. (21 USC Section 841(a)(1).)

(c) The presence of Marijuana Activities and/or operations of Medical Marijuana Distributors, would increase the likelihood of crime on the Property;

(d) The presence of a Marijuana Activities and/or the operation of Medical Marijuana Distributors would likely create parking and traffic flow problems for all Members;

(e) The carrier of the Association's master hazard insurance policy has informed the Members that the increased hazard presented by Marijuana Activities and/or the presence of Medical Marijuana Distributors due to high theft rates, break-ins, flammable products (i.e. THC methane wax extraction) and any manufacturing exposure could cause a claim to be denied and subject all Members of the Association to uncovered financial loss;

(f) The carrier of the Association's master hazard insurance policy has further informed the Members that associations whose units are involved in the sale or distribution of medical marijuana are ineligible for insurance coverage;

(g) The presence of Marijuana Activities and/or the presence of Medical Marijuana Distributors would likely decrease the property value of all Units;

(h) The California Supreme Court has concluded, "[N]either the [Compassionate Use Act of 1996 (Health & Safety Code § 11362.5) ("CUA")] nor the [Medical Marijuana Program (Health & Safety Code § 11362.7 et seq.) ("MMP")] expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana, and to enforce such policies by nuisance actions....[The CUA and the MMP]remove state-level criminal and civil sanctions from specified medical marijuana activities, but they do not establish a comprehensive state system of legalized medical marijuana; or grant a "right" of convenient access to marijuana for medicinal use; or override the zoning, licensing, and police powers of local jurisdictions; or mandate local accommodation of medical marijuana cooperatives, collectives, or dispensaries."(*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.*, 56 Cal. 4th 729, 762-763 (Cal. 2013).)

Therefore, notwithstanding anything in this Declaration to the contrary, the use of any Unit for consumption, cultivation, manufacture, processing, possession, sale and/or distribution of marijuana and/or cannabis-related or -

containing products ("Marijuana Activities") and/or the operation of a medical marijuana collective, a medical marijuana cooperative, or a medical marijuana dispensary (collectively "Medical Marijuana Distributors"), is prohibited.

IN WITNESS WHEREOF, the undersigned have executed this **2015 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums Association**, on this 26, day of February, 2015.

MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION,
a California nonprofit mutual benefit corporation

By: Dan Burakowski
DAN BURAKOWSKI, President

By: Edward Quinn
Edward Quinn, Secretary

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On Feb. 26, 2015 before me, A. Caro DelCastillo, Notary Public, personally appeared Dan Burakowski and Edward Quinn, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

[Signature]
Notary Public



**EXHIBIT A
LEGAL DESCRIPTION**

The Southwesterly 219.55 feet of the Northeasterly 413.55 feet of Lot 9 in the City of San Diego Industrial Park Unit No. 2., in the City of San Diego, County of San Diego, State of California, according to map thereof No. 4113, filed in the Office of the County Recorder of San Diego County, March 12, 1959.

Assessor's Parcel Numbers: 369-150-13-01 through 369-150-13-46

EXHIBIT B

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Montgomery Field Business Condominiums Association (“Association”), Balboa Ave Cooperative (“Balboa”), San Diego United Holdings Group, LLC (“SDUHG”), Ninus Malan (“Malan”), Razuki Investments, LLC (“Razuki LLC”), and Salam Razuki (“Razuki”). The Association, Balboa, SDUHG, Malan, Razuki LLC and Razuki are sometimes referred to in this Agreement individually as a “Party” or collectively as the “Parties.” The Parties agree as follows:

1. Recitals. This Agreement is made with reference to the following recitals:

1.1 The Association is a California mutual benefit corporation that was organized on or about June 19, 1981 pursuant to its Articles of Incorporation, dated May 27, 1981 filed with the California Secretary of State. The Association was organized and operates as a Commercial or Industrial Common Interest Development as defined by Civil Code section 6531. The Association is also a “Condominium Project” as defined by Civil Code section 6542. The Association consists of certain commercial real property, including 62 office and industrial units, located within the City of San Diego, State of California (“Units”).

1.2 The Units are subject to the Association’s governing documents (as that term is defined in Civil Code section 6552), including, but not limited to, the Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums (“CC&Rs”) recorded on July 31, 1981, as Document Number 1981-242889, in the official records of the San Diego County Recorder, as amended from time to time. The Units are also subject to a valid and enforceable 2015 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field Business Condominiums Association, dated February 26, 2015, recorded on March 2, 2015 as Document Number 2015-0093872 (“2015 Amendment”). A true and correct copy of the 2015 Amendment is attached to this Agreement as Exhibit “1” and is incorporated herein by reference. The 2015 Amendment was adopted by the Association pursuant to a valid vote of the Members of the Association (as defined in Section 16 of the CC&Rs), which took place in January and February 2015. In summary, the 2015 Amendment generally prohibits marijuana activities within the Association including the Units. In the 2015 Amendment, “Marijuana Activities” are defined as the “consumption, cultivation, manufacture, processing, possession, sale and/or distribution of marijuana and/or cannabis-related or cannabis-containing products and/or the operation of a medical marijuana collective, a medical marijuana cooperative, a medical marijuana dispensary, or a marijuana business for the sale of any marijuana product.”

1.3 On March 20, 2017, upon the recording of a Grant Deed, dated March 2, 2017 (recorded in the Official Records of the San Diego County Recorder), SDUHG became the record owner of two units within the Association located at 8863 Balboa Ave #E and 8861 Balboa Ave #B (the “SDUHG Units”). The SDUHG Units were transferred from Razuki LLC to SDUHG pursuant to this Grant Deed. In addition, Razuki LLC obtained a Deed of Trust with Assignment of Rents, which was recorded against the SDUHG Units on March 20, 2017 as Document Number 2017-0126557 recorded in the Official Records of the San Diego County Recorder. Malan is the managing member of SDUHG and Razuki is the principal member of Razuki LLC.

1.4 In or about April 2017, pursuant to Conditional Use Permit No. 1296130 8863 Balboa Ste E MMCC – Project No. 368347 (“CUP”), granted by City of San Diego Planning Commission, which is attached as Exhibit “2” and incorporated by reference, the Defendants, either individually or jointly, began some Marijuana Activities within the SDUHG Units.

1.5 On May 26, 2017, the Association commenced a civil enforcement action against the Defendants in San Diego County Superior Court, case number 37-2017-00019384-CU-CO-CTL (“Action”) to enforce the CC&Rs and the 2015 Amendment against the Defendants related to the Marijuana Activities occurring at the SDUHG Units. In the Action, Defendants raised numerous defenses to the validity or enforceability of the 2015 Amendment.

1.6 On September 8, 2017, the Court granted the Association a Preliminary Injunction, which was later modified. The Parties have posted several civil bonds in this Action related to the Preliminary Injunction and other ex parte applications filed in this Action (“Bonds”). Upon execution of this Agreement and the Stipulation, and upon the filing of a Notice of Settlement as set forth in Section 2.18, the Parties shall cooperate in obtaining the release of any bonds as part of this Agreement, if necessary.

1.7 On December 21, 2017, a Posted Notice of Application from the City of San Diego Development Services Department states that SDUHG applied for a Conditional Use Permit for a Marijuana Production Facility to operate within 8859 Balboa Ave, Suites A-E, located within the Association (“Proposed Production Facility”).

1.8 From May 26, 2017 through the present date, the Association has incurred \$127,924 in attorney’s fees and \$14,648.52 in costs in this Action as a result of (i) preparing, filing and serving the Complaint in this Action; (ii) approximately a dozen court hearings resulting or related to various ex parte applications filed by the parties and the preliminary injunction motion; (iii) a deposition; (iv) written discovery; and (v) other related litigation activities. The Association has limited funds, leaving it unable to pay its attorneys’ fees related to this Action in full unless it imposes one or more special assessments to Association’s Unit owners. In the Action, Defendants raised numerous defenses to the validity or enforceability of the 2015 Amendment.

1.9 As set forth in this Agreement, the Parties wish to forever settle, waive, and release any and all allegations, causes of action and claims, whether known or unknown, arising from or related to the Action by or between the Parties other than those claims specifically excluded from the releases herein.

2. Agreement.

In consideration of the recitals, terms, promises, conditions, and mutual covenants contained herein, the Parties agree as follows:

2.1 Settlement Payment. Defendant Malan shall pay the Association \$142,572 (One Hundred Forty-Two Thousand, Five Hundred Seventy-Two Dollars) for its attorneys' fees and costs incurred by the Association in the Action (the "Settlement Payment"). The Settlement Payment shall be paid by certified check, money order, or wire transfer made payable to the "Epsten Grinnell & Howell Client Trust Account" and delivered to the attention of Mandy D. Hexom, Epsten Grinnell & Howell, APC, 10200 Willow Creek Drive, Suite 100, San Diego, California 92131. The Settlement Payment shall be paid in the following manner:

2.1.1. By March 1, 2018, Defendant Malan shall pay the Association \$50,000 ("First Installment") to be applied exclusively toward the Settlement Payment; and

2.1.2. The remainder of the Settlement Payment, or \$92,572 (Ninety-Two Thousand, Five Hundred Seventy-Two Dollars), shall be paid in 15 monthly installments in the amount of \$6,171.47. The first \$6,171.47 installment payment shall be made on or before April 1, 2018 and continuing on the first day of each successive month until the remainder of the Settlement Payment is paid ("Remaining Monthly Installments").

2.2 Use Variance. In exchange for the Settlement Sum and for other valuable consideration as set forth herein, the Association shall permit Defendants to conduct Marijuana Activities and have armed guards as permitted by State and local law including the applicable governmental authorities from the City of San Diego. The Marijuana Activities may only occur within the SDUHG Units and/or the Proposed Production Facility as allowed by state and local law ("Use Variance"). The Use Variance shall be applicable to and run with Defendants only. The Use Variance shall be immediately and automatically revoked upon sale or transfer of the SDUHG Units or the Proposed Production Facility. However, the Board of Directors of the Association may approve a transfer of the Use Variance or approve a new Use Variance to another person or entity ("Transferee") for the SDUHG Units, but such transfer will require a new written agreement between the Association and any Transferee under the same terms and conditions of this Agreement including compliance with Sections 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, and 2.11 herein (unless performance is complete as to those specific provisions) and any other conditions that the Board deems necessary. Furthermore, an agreed transfer of the Use Variance to a Transferee will not waive or dispose of any other obligations imposed on Defendants pursuant to this Agreement that may be due or performed prior to any transfer.

2.2.1 The Parties agree that the 2015 Amendment is valid and enforceable. However, the Association agrees to provide the Use Variance for Marijuana Activities and armed guards even if such activities violate the 2015 Amendment. The Use Variance does not act as a waiver of the Association's ability to enforce its governing documents against any Unit owner within the Association including but not limited to any Party to this Agreement.

2.2.2 The Use Variance shall be in effect as long as Defendants are in compliance with this Agreement, the Stipulation, any applicable Conditional Use Permit, and state and local laws pertaining to Marijuana Activities. In the event of a dispute between the Parties related to the Use Variance, the Parties agree that such dispute shall be made pursuant to an application or motion (with at least 16 court days prior notice) to enforce this Agreement

which allows the non-moving party the opportunity to file an opposition. If the Association prevails on such a motion or application, Judgment shall be entered and the Use Variance will be deemed revoked.

2.2.3 Nothing in this Agreement shall constitute a waiver by any Unit owner from opposing any applications related to any Marijuana Activities within the Association. However, the Association, including the Board of Directors, agrees not to oppose any such applications by the Defendants for any Marijuana Activities that may be allowed pursuant to the terms of this Agreement.

2.2.4 Should any Defendants or their Transferee(s), their/his/its agents or representatives serve on the Board of Directors of the Association, they/he/she/it shall not participate in any decisions on behalf of the Board, the Association, or a Committee of the Board, that relate to the Use Variance, this Agreement, or the Stipulation.

2.3 Payment of Insurance. The Association currently has a package policy of insurance with Farmers. A true and correct copy of the Certificate of Insurance and Memo to Mortgage Processors is attached herewith as Exhibit "3" ("Insurance Policy"). The Association currently has the following deductibles: (i) \$0.00 for Commercial General Liability Deductible; (ii) \$500 for Directors and Officers (D&O) Deductible; (iii) \$2,500 Property Deductible; (iv) \$2,500 Crime Deductible (Money/Fidelity); and (v) \$2,500 Cyber Liability Deductible (collectively "Association Deductibles" or individually "Association Deductible"). The current annual premium for the Association's Insurance Policy is \$14,000 ("Premium"). Defendants agree to the following insurance obligations:

2.3.1 Should the Association's Insurance Policy be cancelled or not renewed because of or related to, in whole or in part, Defendants' Marijuana Activities or armed guards, the Association or its authorized insurance agents and/or brokers, at its sole and exclusive authority and right, may procure or obtain an alternative insurance policy or policies for the Association. Defendants shall not interfere with the Association obtaining any insurance proposal, quotes or policies.

2.3.2 Should the Association be required, at any time in the future, to pay or deduct any deductibles, as required by any Association insurance policies in effect, in an amount for any and all claims involving the Marijuana Activities and/or armed guards permitted pursuant to the Use Variance, Defendants shall pay or reimburse any such deductible amount within 30 days of receipt of a written demand by the Association, which shall include verification by the insurer or an agent of the insurer of such required deductible by written letter, email or notice to the Association or its agent.

2.3.3 Beginning May 1, 2018 and during the time that Defendants conduct Marijuana Activities or have armed guards within the Association, Defendants shall pay the Association's insurance premiums. The Association agrees to send a demand for payment which shall include a copy of the invoice or notice of the required premium for the Association insurance policies ("Insurance Notice"). Defendants agree to pay the Association premium within 30 days of receipt of such Insurance Notice.

2.4 Payment of Association Water and Sewer Costs. Beginning on March 1, 2018, Defendants shall reimburse the Association any and all water and sewer costs above \$500.00 per billing period, which is every two months. The Association agrees to send a demand for payment to Defendants for reimbursement of these water and sewer costs, which shall include a copy of the invoice or bill ("Water Bill Notice"). Defendants agree to pay the Association's water costs above \$500.00 within 15 days of receipt of the Water Bill Notice.

2.5 Payment of Common Area Asphalt Costs. Beginning no earlier than September 1, 2018 and every five years thereafter, as long as this Agreement is in effect, Defendants shall pay or reimburse the costs for asphalt repairs, re-sealing, restriping, and re-stenciling of the common area parking stalls or parking spaces of the Association driveways and parking lots within the common areas of the Association ("Asphalt Costs"). The Parties agree that the Association will obtain a quote prior to obligating Defendants to the Asphalt Costs and present the quote to Defendants. In the event Defendants deem the quote too high, the Parties agree that the Association shall present three proposals or quotes from a licensed contractor and Defendants will be obligated to pay to the Association the lowest proposal for the Asphalt Costs. However, the Board of Directors of the Association will continue to have the authority to choose or select the contractor that will ultimately perform the work.

2.6 Payment of Painting Costs. Defendants agree to pay John Peak and Jason McKinney to paint the exterior of the Association's two front buildings that face Balboa Avenue (8855 Balboa Ave Units A-H and 8865 Balboa Avenue Units A-H) pursuant to a Board-approved proposal for such work ("Painting Costs"). Defendants agree to pay the Painting Costs by March 1, 2020.

2.6.1 In the event John Peak and/or Jason McKinney are unable or unwilling to perform the exterior painting, or if the Association determines these painters do not have adequate insurance, the Parties agree that the Association will obtain a total of three quotes from licensed painting contractors and Defendants will be required to pay to the Association the lowest proposed amount. Payment of these Painting Costs shall be due within 60 days upon receipt by Defendants of the invoice or proposal from the Association. However, the Board of Directors of the Association will continue to have the authority to choose or select the contractor that will ultimately perform the work.

2.7 Payment of Sewer Line Costs.

2.7.1 Defendants agree to hydro-jet the sewer line(s) associated with the SDUHG Units on or before April 1, 2018 and annually thereafter if the Association deems annual hydro-jet service is required or necessary to the SDUHG Units. If the sewer lines associated with the SDUHG Units or the Proposed Production Facility require repair, replacement or other ancillary work to be performed, Defendants shall reimburse the Association for any such costs upon receipt of a written demand by the Association within 60 days.

2.7.2 Between December 1, 2020 and March 1, 2021, Defendants agree to pay the cost to replace the Association's main sewer line ("Sewer Line Replacement"). The

Parties agree that the Association will obtain three quotes from a licensed and insured plumber prior to obligating Defendants to the Sewer Line Replacement and present the lowest quote to Defendants. Reimbursement of the cost of the Sewer Line Replacement shall be due within 60 days upon receipt by Defendants of the lowest proposal received by Defendants from the Association.

2.8 Water Valve Costs. Defendants shall reimburse the Association for the costs to replace 8 shut-off or shut down valves (one of each building) in addition to related new meter valves (5 total) ("Water Valve Costs"). The Association will obtain a total of three quotes from a licensed plumber and Defendants will be required to pay to the Association the lowest proposed amount. Payment of these Water Valve Costs shall be due within 60 days upon receipt by Defendants of the invoice or proposal from the Association. However, the Board of Directors of the Association will continue to have the authority to choose or select the contractor that will ultimately perform the work, provided that such reimbursement or payment will not be due before December 1, 2019.

2.9 Signs. Defendants agree that they cannot erect any signs for any Marijuana Activities or otherwise on the common areas of the Association unless such signs are first approved by the Board. The current signs on the Units will be approved by the Board of Directors of the Association at the Board meeting in February 2018.

2.10 Architectural Approval. Defendants must comply with Article VII, Section of the CC&RS. The Board of Directors of the Association may conduct an inspection of the interior of the SDUHG Units or the Proposed Production Facility upon 24 hours advanced written notice to Defendants if the Board of Directors obtains credible written information which details a potential violation of the governing documents of the Association.

2.11 Indemnification. Defendants hereby agree to and shall indemnify, hold harmless, and defend, at their own cost and expense, the Association and its employees, agents, officers, directors, board members, or representatives (collectively, "Association") from and against any and all losses, damages, judgments, rulings, settlements, claims, demands, actions, complaints, lawsuits, arbitrations, mediations, costs and expenses, including attorney's fees and costs (collectively "Claims" or individually "Claim") incurred by Association related to or resulting from any and all claims asserted or brought against Association in connection with the Marijuana Activities or armed guards involving the Defendants. Defendants further agree to defend, promptly and diligently, without compromising any deadlines imposed by law, at their sole expense, any such Claims brought against the Association or against the Association and/or Defendants, and to reimburse the Association any monies Association may have had to advance or pay to Defendants to protect the Association from such Claims (although nothing herein shall be construed to require Association to do so) or as the Association is required to pay by law or regulation or in order to avoid a fine, penalty, or forfeiture, or otherwise is paid by the Association in connection with, or as an expense, in defense of any Claim relating to Marijuana Activities or armed guards within the Association. This indemnification provision and its obligations shall be covered by any applicable insurance coverage(s) and for purposes of such insurance, Defendants shall list the Association as an additional insured party. The provisions

and obligations of this Indemnification paragraph shall survive for as long as the Use Variance is in effect or in use.

2.12 Stipulation. The Parties shall enter into the Stipulation for Court Jurisdiction to Enforce Settlement Upon Default Pursuant to Code of Civil Procedure Section 664.4 and Entry of Judgment Upon Default; Proposed Order Thereon, a true and correct copy of which is attached herewith as Exhibit "4" ("Stipulation"). The Parties shall also execute the proposed Judgment as to form only, which is attached herewith as Exhibit "5." The Judgment shall not be filed unless and until there is an adjudicated violation pursuant to Code of Civil Procedure section 664.6. The Parties further understand and agree that this Agreement will be attached as an exhibit to an application or motion should Party be required to file a noticed application or motion to enforce the terms of this Agreement pursuant to Section 2.17 herein.

2.13 Dismissal of Avila Restraining Order, Contempt, and Appeal. Balboa, SDUHG, Malan and Association agree that they will, in good faith, attempt to obtain a dismissal of the restraining order against Board President, Daniel Burakowski and dismissal of the related contempt and appeal, in exchange for a mutual waiver of fees and costs by the parties in that action and appeal, entitled *Anthony Avila v. Daniel Burakowski*, San Diego Superior Court Case Number 37-2017-00020519-CU-HR-CTL and Court of Appeal Case Number D072772.

2.14 Dismissal of Action. Within seven business days upon the receipt of a fully executed copy of this Agreement and the Stipulation, the Association shall file a Conditional Notice of Settlement using Judicial Council Form CM-200 indicating that the settlement is conditioned on obligations not to be performed until after payment of the Settlement Sum as set forth in Section 2.1. Upon payment of the Settlement Payment, the Association shall file with the court the attached Stipulation with the court in order to effectuate the execution of the Stipulation by the court and to obtain dismissal of the action without prejudice pursuant to the Stipulation. The Parties understand and agree that the Association may appear ex parte in this Action only to obtain the court's agreement and signature to retain jurisdiction as set forth in the Stipulation after the payment of the Settlement Payment.

2.15 Mutual Release of Claims by the Parties. With the exception of his/her/its/their respective rights and obligations created pursuant to this Agreement and the Stipulation, and as otherwise set forth in this Agreement or the Stipulation, upon execution of this Agreement and the Stipulation, and upon completed performance of Sections 2.1 herein, each Party hereby forever mutually releases and discharges each other Party his/her/its/their predecessors, successors and assigns and his/her/its/their respective officers, agents, directors, employees, other representatives and shareholders, from any and all claims including, without limitation, rights, defenses, demands, causes of action, liabilities, suits, obligations, controversies, damages, losses, expenses, penalties, costs, attorney's fees, and expenses of each and every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingent, based upon, related to, or arising out of the Action related to this Action (the "Released Claims").

2.16 Waiver of Civil Code Section 1542. The Parties acknowledge this Agreement and all releases and waivers contained herein are intended to and do apply to all such

known, unknown, expected or unexpected risk, loss, or damage. Except as otherwise provided herein, the Parties expressly waive any and all rights they may have pursuant to the provisions of section 1542 of the California Civil Code, which section 1542 states as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties hereby acknowledge that they understand the significance and consequences of the specific waiver of Civil Code section 1542 and waive and relinquish all rights and benefits they may have under Civil Code section 1542 to the full extent that they may lawfully waive all such rights and benefits.

2.17 Enforcement of Agreement.

2.17.1 CCP Section 664.6. The Parties stipulate, agree and acknowledge, pursuant to the Stipulation, that this Agreement shall be enforceable pursuant to and under Code of Civil Procedure section 664.6 and pursuant to the court's inherent power to enforce settlement agreements, including the power to set aside a dismissal in order to enforce the Agreement. Accordingly, the Parties request and agree that the San Diego County Superior Court shall have the authority and exclusive jurisdiction to enforce the terms of this Agreement pursuant to CCP section 664.6 or pursuant to any other authority if the court refuses to apply CCP section 664.6 to enforce the terms of this Agreement.

2.17.2 Service of Agreement. Execution of this Agreement by a Party constitutes proof that such Party was served with this Agreement for purposes of any ex parte application or motion to enforce pursuant to Civil Code section 664.6 or otherwise.

2.17.3 Attorneys' Fees. Should either Party initiate any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, costs, and necessary disbursements against the non-prevailing Party, in addition to any other appropriate relief.

3. General Provisions

3.1. Required Notices. Any required notices to be delivered to a Party or Parties shall be provided by first class mail as follows:

If to Ninus Malan, Balboa Ave Cooperative or SDUHG, then to:
Ninus Malan
SDUHG, and Balboa Ave Cooperative
8863 Balboa Ave, Ste E, San Diego, CA 92123

If to Salam Razuki or Razuki Investments, LLC, then to:

Douglas Jaffe
Law Offices of Douglas Jaffe
501 West Broadway, Suite 800
San Diego, CA 92101

If to Association, then to:

Mandy D. Hexom
Epsten Grinnell & Howell, APC
10200 Willow Creek Road, Suite 100
San Diego, CA 92131

3.2 Independent Counsel. The Parties have been represented or have had the opportunity to be represented by independent counsel of their own choice throughout any and all negotiations which preceded the execution of this Agreement. Each Party executed this Agreement with the consent and upon the advice of said independent counsel including with respect to the meaning of California Civil Code section 1542. The Parties have conducted their own independent investigation and relied upon their own advisors and attorneys regarding the settlement and terms of this Agreement and are entering into this Agreement on their own free will.

3.3 Waiver of Attorney's Fees and Costs. Except as other set forth herein, each Party shall bear their/its/his/her own costs and attorneys' fees in any way related to the Action, and the negotiation, documentation, and consummation of this Agreement and the Stipulation.

3.4 Authorized Signatory. The Parties, or the authorized representative thereof, has read this Agreement and understands the contents set forth herein. Each individual signing this Agreement on behalf of its respective entity or individual Party warrants and represents that each has the full power and authority to do so and thereby binds such respective Party.

3.5 Integration. This Agreement and Stipulation memorializes and constitutes the final expression and understanding between the Parties as to the claims being released herein, the complete exclusive statement of the Agreement, and supersedes and replaces all prior negotiations and agreements whether written or oral. The Stipulation is incorporated herein.

3.6 No Oral Modification or Modification by Interested Defendants. This Agreement may only be amended or modified by a writing signed by the Parties.

3.7 Cooperation and Drafting. Each Party has cooperated in the drafting and preparation of this Agreement and Stipulation. Hence, if any construction is made of this Agreement and Stipulation, the same shall not be construed against any Party.

3.8 California Law. This Agreement shall be deemed to have been executed and delivered within the County of San Diego, State of California, and the rights and obligations

of the parties hereto shall be governed and enforced in accordance with the laws of the State of California.

3.9 Further Assurances. The Parties shall perform any further acts and execute and deliver any documents which may be reasonably necessary to carry out the intent of this Agreement.

3.10 Captions. Sections, paragraphs, captions and/or headings contained in this Agreement are inserted for reference and convenience, and are not intended to define, limit, extend or otherwise define the scope or content of this Agreement or any provision hereof and shall not affect in any way the meaning or interpretation of this Agreement.

3.11 Counterparts. This Agreement may be executed in counterparts and when each Party has signed and delivered one such counterpart, each counterpart shall be deemed an original and, when taken together with other signed counterparts, shall constitute one Agreement which shall be binding upon and effective as to all Parties.

3.12 Facsimile or Electronic Signatures. This Agreement may be executed and signature pages exchanged via facsimile. Upon receipt via facsimile by all Parties, each executed signature page, combined with other original signature pages, shall be deemed an original and shall constitute one Agreement which shall be binding upon and effective as to all parties. A signed copy of the Agreement transmitted by facsimile machine, or other electronic image, will have the same force and effect as an original signature.

3.13 No Waiver. No delay or omission on the part of either Party in exercising or enforcing any rights under this Agreement shall constitute a waiver of the right, or of any right, including, but not limited to, the right to enforce any continuing breach of this Agreement.

3.14 Effective Date of Agreement. This Agreement shall become effective upon the date it is last signed by the Parties (the "Effective Date") and upon all Parties executing the Stipulation.

3.15 Time is of the Essence. Time is of the essence as to each and every term, covenants and condition of this Agreement in which time is a factor.

EACH OF THE UNDERSIGNED HEREBY DECLARES THAT THE TERMS OF THIS AGREEMENT HAVE BEEN COMPLETELY READ AND ARE FULLY UNDERSTOOD, AND BY EXECUTION HEREOF VOLUNTARILY ACCEPT THE TERMS WITH THE INTENT TO BE LEGALLY BOUND THEREBY.

Dated: 2/13/18

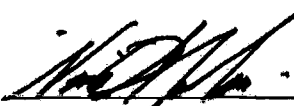
BALBOA AVE COOPERATIVE

By: _____

Title: President

Dated: 2/12/18

SAN DIEGO UNITED HOLDINGS GROUP, LLC

By: 

Title: Manager

Dated: 2/12/18


NINUS MALAN

Dated: _____

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

By: _____
Daniel Burakowski
Board President

Dated: _____

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

By: _____
Glenn Strand
Vice President

Dated: _____

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

By: _____
Chris Williams
Secretary

Dated: _____

SAN DIEGO UNITED HOLDINGS GROUP, LLC

By: _____

Title: _____

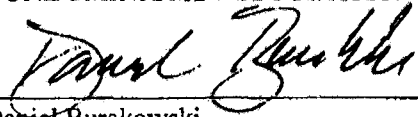
Dated: _____

NINUS MALAN

Dated: 2/13/2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION


By: _____


Daniel Burakowski
Board President

Dated: 2/13/2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION


By: _____


Glenn Strand
Vice President

Dated: 2-13-2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

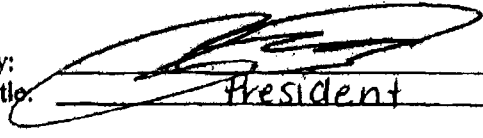
By: _____


Chris Williams
Secretary

Dated: 2/12/18

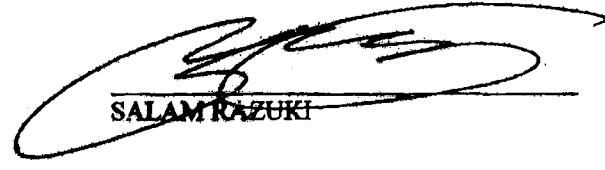
RAZUKI INVESTMENTS, LLC

By:
Title:



President

Dated: 2/12/18



SALAM RAZUKI

EXHIBIT C

1 Rian W. Jones, Bar No. 118830
Mandy D. Hexom, Bar No. 216390
2 EPSTEN GRINNELL & HOWELL APC
10200 Willow Creek Road, Suite 100
3 San Diego, California 92131
(858) 527-0111/ Fax (858) 527-1531
4 rjones@epsten.com
mhexom@epsten.com

5 Attorneys for Plaintiff,
6 MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO, CENTRAL DIVISION
10

11 MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
12 California Nonprofit Mutual Benefit
Corporation,

13 Plaintiff,

14 v.

15 BALBOA AVE COOPERATIVE, a
16 California corporation; SAN DIEGO
UNITED HOLDINGS GROUP, LLC, a
17 California limited liability company; NINUS
MALAN, an individual; RAZUKI
18 INVESTMENTS, LLC, a California limited
liability company; SALAM RAZUKI, an
19 individual; and DOES 1 through 25,
inclusive,

20 Defendants.
21

CASE NO. 37-2017-00019384-CU-CO-CTL

**STIPULATION FOR COURT TO RETAIN
JURISDICTION TO ENFORCE
SETTLEMENT UPON DEFAULT
PURSUANT TO CODE OF CIVIL
PROCEDURE SECTION 664.6 AND
ENTRY OF JUDGMENT UPON
DEFAULT; [PROPOSED] ORDER
THEREON**

Case Assignment: Honorable Ronald L. Styn
Complaint Filed: May 26, 2017
Trial Date: March 9, 2018

[IMAGED FILE]

22 IT IS HEREBY STIPULATED by and between Plaintiff, MONTGOMERY FIELD
23 BUSINESS CONDOMINIUMS ASSOCIATION, a California Non-Profit Corporation
24 ("Plaintiff" or "Association") and Defendants, BALBOA AVE COOPERATIVE, SAN
25 DIEGO UNITED HOLDINGS GROUP, LLC, NINUS MALAN, RAZUKI INVESTMENTS,
26
27
28

1 LLC and SALAM RAZUKI (collectively, the “Defendants”) as follows:¹

2 1. Recitals. On or about May 26, 2017, the Association commenced this action
3 against the Defendants for causes of action related to the enforcement of the Association’s
4 Declaration of Covenants, Conditions and Restriction for Montgomery Field Business
5 Condominiums recorded on July 31, 1981 as Documents No. 1981-242889 in the Official
6 Records of the San Diego County Recorder’s Office (“CC&Rs”) and the Association’s 2015
7 Amendment to Declaration of Covenants, Conditions and Restrictions for Montgomery Field
8 Business Condominiums Association recorded on March 2, 2015 as Document No. 2015-
9 0093872 in the Official Records of the San Diego County Recorder’s Office (“2015
10 Amendment”). The complaint in this action also demanded attorney’s fees and costs incurred
11 by the Association to enforce the CC&Rs and 2015 Amendment.

12 2. Settlement Agreement. The Parties to this action and to this Stipulation have
13 entered into a Settlement Agreement (“Settlement Agreement”) providing, in part, at Section
14 2.2.1, that upon default or breach of the Settlement Agreement, the Association may have the
15 dismissal in this action set aside and Judgment (in an agreed-form attached herewith as Exhibit
16 A unless as otherwise modified by the court) filed and entered on its behalf as hereafter
17 provided by a noticed motion pursuant to Code of Civil Procedure section 1005.

18 3. Payment of Attorney’s Fees and Costs. Pursuant to Section 2.1 of the
19 Settlement Agreement, Defendant, MALAN agrees to pay and agree to be liable for the
20 Association’s attorney’s fees and costs incurred in this action in the total amount set forth in
21 Section 2.1 of the Settlement Agreement. The Parties agree that if the Association enforces
22 Section 2.1 of the Settlement Agreement, such payment is not to be considered a penalty.

23 4. Retention of Jurisdiction. The Parties agree that, pursuant to Section 664.6 of
24 the California Code of Civil Procedure, the San Diego Superior Court shall retain jurisdiction
25 over this case, and the performance of the obligations to be undertaken pursuant to the terms of
26 this Stipulation and the Settlement Agreement for as long as the court agrees to retain

27 ¹ The Association, Balboa Ave Cooperative, San Diego United Holdings Group, LLC, Ninus
28 Malan, Razuki Investments, LLC and Salam Razuki may be referred to as a “Party”
individually or “Parties” collectively in this Stipulation.

1 jurisdiction, and the Parties agree to submit to said jurisdiction. In the event any obligation
2 imposed by the Stipulation or the Settlement Agreement is not fulfilled as prescribed herein,
3 the court may set aside the dismissal entered in this action and, upon reasonable notice and
4 after hearing set forth herein, enforce the terms of this Stipulation and the Settlement
5 Agreement pursuant to Code of Civil Procedure section 664.6, and enter judgment against
6 either Party for violations of any of the terms set forth in this Stipulation and/or the Settlement
7 Agreement. This Stipulation and Settlement Agreement memorializes the settlement terms
8 entered into by the Parties, and is signed by all Parties to this action.

9 5. Default Terms. It is hereby agreed by the Parties that Defendants will be in
10 default under the terms of the Settlement Agreement should they fail to comply with any of the
11 terms set forth in Section 2 of the Settlement Agreement. It is further agreed by the Parties that
12 any Party will be in default under the terms of the Settlement Agreement should they fail to
13 comply with any of the Settlement Agreement's terms that he/she or it is obligated to perform.

14 6. Entry of Judgment Upon Default. Should any Party allege a breach or default of
15 any of the terms of the Settlement Agreement, the non-breaching Party will give the alleged
16 breaching Party written notice, via first class mail, which will be sent pursuant to the Required
17 Notices provision of the Settlement Agreement at Section 3.1. If the deficiencies, breach or
18 default of the Settlement Agreement is not corrected within ten (10) days from the date of said
19 written notice, then the non-breaching Party may apply or move the court on with at least 16
20 court days prior notice to the other Party, for enforcement of the Settlement Agreement and
21 other relief as the court deems just and proper.

22 7. If the breach or default is adjudicated against MALAN as to Section 2.1 of the
23 Settlement Agreement, Judgment will be entered against MALAN as set forth and attached as
24 Exhibit A unless otherwise modified by the court as it deems just and necessary.

25 8. In addition, upon a finding by the court that Defendants are in breach or default
26 of any terms set forth in Section 2 of the Settlement Agreement, the Association will be
27 entitled to and may seek, as part of a Judgment, a permanent injunction order prohibiting
28 Defendants, or any other persons or entities on behalf of Defendants or its successors, from

1 performing Marijuana Activities or having armed guards within the Association. This order
2 will also require Defendants and their agents or successors from immediately and permanently
3 ceasing any and all "Marijuana Activities" as defined in Section 20 of the Association's
4 CC&Rs and/or as defined in the 2015 Amendment and will be prohibited from having any
5 armed guards within the Association.

6 9. The Association is entitled to, and may seek, as part of the Judgment, the
7 Association's reasonable attorney's fees and costs incurred to enforce the terms of this
8 Stipulation and Settlement Agreement including the attorney's fees and costs to prepare and
9 file the default notice, the notice of motion, any related documents or pleadings, and to attend
10 a hearing to file and enter Judgment. The Parties stipulate and agree that the amounts for these
11 attorney's fees and costs may be inserted by the Association or the court in the Judgment upon
12 the filing of this Stipulation in support of an ex parte application or motion to set aside
13 dismissal and enforce the Settlement Agreement. The Parties agree that if a Party enforces
14 Section 2.17 of the Settlement Agreement or this provision of the Stipulation and the court
15 requires payment of such attorney's fees and costs to enforce the Settlement Agreement, such
16 obligation is not to be considered a penalty.

17 10. Dismissal without Prejudice. The Parties agree and state that this action may be
18 dismissed without prejudice and with a reservation of power and jurisdiction of the court to set
19 aside said dismissal and order entry of judgment in the manner provided in this Stipulation and
20 Settlement Agreement and pursuant to Code of Civil Procedure Section 664.6. If any
21 enforcement is necessary or a dispute arises after entry of any dismissal, the court reserved
22 jurisdiction to reinstate this action nuc pro tunc as of the date of this Stipulation and Order so
23 that the court can issue orders as set forth herein.

24 11. Defendants waive findings of fact, conclusions of law, any right to appeal from
25 any Judgment entered pursuant to this Stipulation and Settlement Agreement, the right to
26 move for a new trial, and any notices of hearings except as set forth herein.

27 12. If any provision or term of this Stipulation is determined to be invalid, such
28 invalidity shall not affect other provisions or terms which can be given effect without the

1 invalid provisions or terms; and to this end the provisions and terms of this Stipulation shall be
2 severable.

3 13. The Parties also agree that in the event of any dispute in the case, or as to the
4 language or meaning of the terms of this Stipulation, the court shall have sole and exclusive
5 power to render any decision related to such dispute.

6 14. This Stipulation and Settlement Agreement shall be effective upon its execution
7 by all Parties.

8 15. The Parties represent and warrant that (i) they have read and understand the
9 terms of this Stipulation and the Settlement Agreement, and (ii) have entered into this
10 Stipulation and Settlement Agreement for reasons of their own and not based upon
11 representations of any other Party hereto.

12 16. By executing this Stipulation and Settlement Agreement, each of the Parties
13 represents that it has the right, legal capacity, power and authority to enter into this Stipulation
14 and to perform its obligations hereunder, without the consent, approval or authorization of any
15 person, entity, tribunal or other regulatory or governmental authority.

16 17. At all times material hereto the Parties have had an opportunity to consult with
17 legal counsel of their own choosing concerning their rights with respect to the form and
18 content of this Stipulation and Settlement Agreement and the advisability of executing the
19 same.

20 18. This Stipulation and Settlement Agreement shall be binding on, and inure to the
21 benefit of the Parties hereto, and where applicable, their respective parents, subsidiaries,
22 affiliates, divisions, officers, directors, owners, associates, predecessors, successors, heirs,
23 assigns, agents, partners, employees, insurers, and representatives.

24 19. This Stipulation and Settlement Agreement may be executed in counterparts
25 and all such counterparts when so executed shall together constitute the final Stipulation as if
26 one document had been signed by all of the Parties. This Stipulation and Settlement
27 Agreement may be executed by e-mail or facsimile copy and each signature thereto shall be
28 and constitute an original signature, again as if all Parties had executed a single original


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document. No modification of any provision of this Stipulation and Settlement Agreement shall be effective unless the same is in writing and signed by all Parties, and then such modification shall be effective only in the specific instance or for the purpose for which given.


20. Each of the Parties to this Stipulation and Settlement Agreement agree to execute and deliver to the other Parties such other documents, instruments, and writings reasonably necessary to effectuate this Stipulation and shall undertake such other actions to cause the consummation of the transactions contemplated by this Stipulation and Settlement Agreement.

Dated: February 12th, 2018

BALBOA AVE COOPERATIVE


By: Ninus Malan, Its President

Dated: February 12th, 2018


NINUS MALAN

Dated: February 12th, 2018

SAN DIEGO UNITED HOLDINGS GROUP, LLC


Ninus Malan, Its Managing Member

Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION, a California Non-Profit Corporation

By: _____
Daniel Burakowski, Board President

1 document. No modification of any provision of this Stipulation and Settlement Agreement
2 shall be effective unless the same is in writing and signed by all Parties, and then such
3 modification shall be effective only in the specific instance or for the purpose for which given.

4 20. Each of the Parties to this Stipulation and Settlement Agreement agree to
5 execute and deliver to the other Parties such other documents, instruments, and writings
6 reasonably necessary to effectuate this Stipulation and shall undertake such other actions to
7 cause the consummation of the transactions contemplated by this Stipulation and Settlement
8 Agreement.

9
10 Dated: February ____, 2018

BALBOA AVE COOPERATIVE

11
12 _____
By: Ninus Malan, Its President

13
14 Dated: February ____, 2018

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16 _____
NINUS MALAN

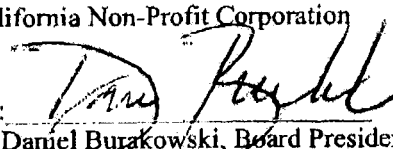
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18 Dated: February ____, 2018

SAN DIEGO UNITED HOLDINGS GROUP,
LLC

19
20 _____
Ninus Malan, Its Managing Member

21
22 Dated: February 14, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

23
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25 By: 
Daniel Burakowski, Board President

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Dated: February 14, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

By: X X X X X X X

By: Glen Strand
Glen Strand, Vice-President

Dated: February 17, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

By: Chris Williams
Chris Williams, Secretary

Dated: _____

RAZUKI INVESTMENTS, LLC

By: _____
Title: _____

Dated: _____

SALAM RAZUKI

APPROVED AS TO FORM AND CONTENT:

Dated: February ____, 2018

EPSTEN, GRINNELL & HOWELL, APC

Mandy D. Hexom
Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

Dated: February ____, 2018

AUSTIN LEGAL GROUP, APC

Gina Austin
Tamara Leetham
Attorneys for Defendants,
BALBOA AVE COOPERATIVE, NINUS
MALAN, and SAN DIEGO UNITED
HOLDINGS GROUP, LLC

1 Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

2
3 By: _____

By: _____
Glen Strand, Vice-President

4
5 Dated: February _____, 2018

MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION, a
California Non-Profit Corporation

6
7
8 By: _____

By: _____
Chris Williams, Secretary

9 Dated: 02/13/18

RAZUKI INVESTMENTS, LLC

10 By: _____

Title: President

11 Dated: 02/13/18

[Signature]
SALAM RAZUKI

12
13
14 APPROVED AS TO FORM AND CONTENT:

15 Dated: February 14, 2018

EPSTEN, GRINNELL & HOWELL, APC

16
17
18

[Signature]
Mandy D. Hexom
Attorneys for Plaintiff,
MONTGOMERY FIELD BUSINESS
CONDOMINIUMS ASSOCIATION

19
20 Dated: February 12, 2018

AUSTIN LEGAL GROUP, APC

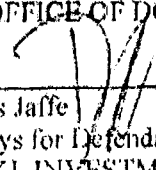
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[Signature]
Gina Austin
Tamara Leetham
Attorneys for Defendants,
BALBOA AVE COOPERATIVE, NINUS
MALAN, and SAN DIEGO UNITED
HOLDINGS GROUP, LLC

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Dated: February 15, 2018

LAW OFFICE OF DOUGLAS JAFFE



Douglas Jaffe
Attorneys for Defendants,
RAZUKI INVESTMENTS, LLC, and SALAM
RAZUKI

IT IS SO ORDERED:

Dated:

JUDGE OF THE SUPERIOR COURT

EXHIBIT D

Leetham, Tamara

From: Heidi Rising <heidi@goldenstategreens.com>
Sent: Tuesday, November 27, 2018 3:17 PM
To: Leetham, Tamara
Cc: AK; Ninus Malan; Austin, Gina; Matthew Dart; Judd Henkes IV
Subject: Re: Non-performance

Tamara,

To clarify, we are closing the doors to Balboa today and until farther notice. There is not enough inventory to keep the doors open and still make money to pay expenses as well as pay off the old invoices/vendors Adam mentioned above.

On Tue, Nov 27, 2018 at 2:33 PM Leetham, Tamara <tamara@austinlegalgroup.com> wrote:
Adam,

For clarity's sake, what do you mean when you say you are unable to carry on? Please advise immediately.

-Tamara

-----Original Message-----

From: Adam Knopf [<mailto:adamearth73@gmail.com>]
Sent: Tuesday, November 27, 2018 2:31 PM
To: Ninus Malan; Austin, Gina; Leetham, Tamara; Matthew Dart; Heidi Rising; Judd Henkes IV
Subject: Non-performance

Ninus,

We are emailing you today to let you know that we are unfortunately unable to carry on over at Balboa without the inventory to support the operation.

As far as money owed we will still have to follow up with a final invoice But as of now here are some rough #s owed to Far West Management 75k Management fee 50k in product owed to vendors 10k in payroll Hopefully there is a better outcome and Fridays court hearing that frees up some money of some sort

--
Regards,
Adam Knopf

EXHIBIT E

Leetham, Tamara

From: Ninus Malan <ninusmalan@yahoo.com>
Sent: Tuesday, October 2, 2018 7:30 PM
To: Mike E.
Cc: Austin, Gina; Leetham, Tamara; Judd Henkes IV
Subject: Urgent Payments Needing to be Paid

Mike,

The following payment's are currently outstanding and needing to be paid asap. Please let me know if you will be paying them in the next few days. I will not be able to make any payments personally. I need to know if we can make any of these payments?

1. October 2018 Balboa 5 Units Mortgage - \$9,952.36 to Salas Financial
2. October 2018 Balboa 2 Units Mortgage - \$4,573.70 to Salas Financial
3. October 2018 Mira Este 2nd Mortgage - \$9,831.50
4. October 2018 Mira Este 1st Mortgage - \$13,250.00
5. Epsten, Grinnel and Howell for HOA Settlement Payment - \$6,171.47
6. Techne for Balboa 5 Units CUP - \$19,493.25
7. San Diego Reader Outstanding Balance \$2,750.00
8. Inzone Insurance for Balboa Ave Cooperative \$679.18
9. CDTFA Tax \$173,702.86 - No Payments Made Yet
10. HOA Sewer Bill Installment Payment - \$20,000.00
11. July 2018 HOA Insurance Payment - \$3,520.65
12. August 2018 HOA Insurance Payment - \$3,520.65
13. Balboa Ave 5 Units HOA monthly standard fee September 2018 - \$900.00
14. Balboa Ave 5 Units HOA monthly standard fee October 2018 - \$900.00
15. Balboa Ave 2 Units HOA monthly standard fee September 2018 - \$360.00
16. Balboa Ave 2 Units HOA monthly standard fee October 2018 - \$360.00
17. Loan from Ninus Malan Personal for August 2018 Balboa 5 Units Mortgage - \$9,952.36
18. Loan from Ninus Malan Personal for August 2018 Balboa 2 Units Mortgage - \$4,573.70
19. Loan from Ninus Malan Personal for August 2018 Mira Este 1st Mortgage - \$6,625.00
20. Loan from Ninus Malan Personal for August 2018 Roselle Mortgage - \$3,300.00
21. Loan from Ninus Malan Personal for August 2018 Mira Este 2nd Mortgage - \$4,915.75
22. Loan from Chris Hakim Personal for August 2018 Mira Este 1st Mortgage - \$6,625.00
23. Loan from Chris Hakim Personal for August 2018 Mira Este 2nd Mortgage - \$4,915.75
24. Loan from Chris Hakim Personal for August 2018 Roselle St Mortgage - \$3,300.00
25. September 2018 HOA Insurance Payment - \$3,520.65
26. October 2018 HOA Insurance Payment - \$3,520.65
27. Loan from Ninus Malan Personal for September 2018 Mira Este 1st Mortgage - \$6,625.00
28. Loan from Ninus Malan Personal for September 2018 Mira Este 2nd Mortgage - \$4,915.75
29. Loan from Chris Hakim Personal for September 2018 Mira Este 1st Mortgage - \$6,625.00
30. Loan from Chris Hakim Personal for September 2018 Mira Este 2nd Mortgage - \$4,915.75

Please Advise,

Ninus Malan

EXHIBIT F

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 277861 NAME: Daniel Watts SBN 277861 Steven Blake SBN 235502 FIRM NAME: Galuppo & Blake STREET ADDRESS: 2792 Gateway Rd, Suite 102 CITY: Carlsbad STATE: CA ZIP CODE: 92009 TELEPHONE NO.: 760-431-4575 FAX NO.: 760-431-4579 E-MAIL ADDRESS: dwatts@galuppolaw.com ATTORNEY FOR (name): Appellants Ninus Malan, et. al.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W Broadway MAILING ADDRESS: 330 W Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Salam Razuki DEFENDANT/RESPONDENT: Ninus Malan	
<input checked="" type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)	CASE NUMBER: 37-2018-00034229-CU-BC-CTL

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name): Ninus Malan, et. al. (See Exhibit A for full list of appealing parties) appeals from the following judgment or order in this case, which was entered on (date): September 26, 2018
- Judgment after jury trial
 Judgment after court trial
 Default judgment
 Judgment after an order granting a summary judgment motion
 Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.360, or 583.430
 Judgment of dismissal after an order sustaining a demurrer
 An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
 An order or judgment under Code of Civil Procedure, § 904.1(a)(3)-(13)
 Other (describe and specify code section that authorizes this appeal):

2. For cross-appeals only:

- a. Date notice of appeal was filed in original appeal:
 b. Date superior court clerk mailed notice of original appeal:
 c. Court of Appeal case number (if known):

Date: October 30, 2018

Daniel Watts

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)

1 Steven W. Blake, Esq., SBN 235502
2 Andrew W. Hall, Esq., SBN 257547
3 Daniel Watts, Esq. SBN 277861
4 **GALUPPO & BLAKE**
5 A Professional Law Corporation
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10 AUSTIN LEGAL GROUP, APC
11 3990 Old Town Ave, Ste A-112
12 San Diego, CA 92110
13 Phone: (619) 924-9600
14 Facsimile: (619) 881-0045

11 Attorneys for Defendants

13 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
14 CENTRAL DIVISION

15 SALAM RAZUKI, an individual,
16 Plaintiff,
17 vs.
18 NINUS MALAN, an individual; MONARCH
19 MANAGEMENT CONSULTING, INC., a
20 California corporation; SAN DIEGO UNITED
21 HOLDING GROUP, LLC, a California limited
22 liability company; MIRA ESTE
23 PROPERTIES, LLC, a California limited
24 liability company; ROSELLE PROPERTIES,
25 LLC, a California limited liability company;
and DOES 1-100, inclusive,
Defendants.

Case No.: 37-2018-00034229-CU-BC-CTL
Assigned: Hon. Judge Sturgeon
Dept.: C-67
Exhibit A to Notice of Appeal

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List of Appealing Parties

1. Ninus Malan
2. San Diego United Holdings Group, LLC
3. Flip Management, LLC
4. California Cannabis Group
5. Balboa Ave Cooperative
6. Devilish Delights, Inc.

EXHIBIT G

1 Rian W. Jones, Bar No. 118830
2 Mandy D. Hexom, Bar No. 216390
3 EPSTEN GRINNELL & HOWELL APC
4 10200 Willow Creek Road, Suite 100
5 San Diego, California 92131
6 (858) 527-0111/ Fax (858) 527-1531
7 rjones@epsten.com
8 mhexom@epsten.com

9 Attorneys for Plaintiff,
10 MONTGOMERY FIELD BUSINESS
11 CONDOMINIUMS ASSOCIATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN DIEGO, HALL OF JUSTICE

14 MONTGOMERY FIELD BUSINESS
15 CONDOMINIUMS ASSOCIATION, a
16 California Nonprofit Mutual Benefit
17 Corporation,

18 Plaintiff,

19 v.

20 BALBOA AVE COOPERATIVE, a
21 California corporation; SAN DIEGO
22 UNITED HOLDINGS GROUP, LLC, a
23 California limited liability company; NINUS
24 MALAN, an individual; RAZUKI
25 INVESTMENTS, LLC, a California limited
26 liability company; SALAM RAZUKI, an
27 individual; and DOES 1 through 25,
28 inclusive,

Defendants.

CASE NO. 37-2017-00019384-CU-CO-CTL

Case Assignment: Honorable Ronald L. Styn

**PLAINTIFF MONTGOMERY FIELD
BUSINESS CONDOMINIUMS
ASSOCIATION'S NOTICE OF
APPLICATION AND APPLICATION TO
ENFORCE SETTLEMENT;
DECLARATION OF JOHN PEEK FILED
HEREWITH; NOTICE OF LODGMENT
FILED HEREWITH; AND [PROPOSED]
ORDER AND JUDGMENT LODGED
HEREWITH**

Date: January 10, 2019

Time: 8:30 a.m.

Dept.: C-74

Judge: Hon. Ronald L. Styn

Complaint Filed: May 26, 2017

[IMAGED FILE]

ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 10, 2019 at 8:30 a.m. in Department C-74 of
the San Diego Superior Court, located at 330 West Broadway, San Diego, California 92101,
Plaintiff, MONTGOMERY FIELD BUSINESS CONDOMINIUMS ASSOCIATION

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. FACTUAL BACKGROUND AND GROUNDS FOR ENFORCEMENT**

3 On and about February 13, 2018, the parties entered into the Settlement Agreement and
4 Stipulation for Court to Retain Jurisdiction to Enforce Settlement Upon Default Pursuant to
5 Code of Civil Procedure Section 664.6 and Entry of Judgment Upon Default; Order Thereon,
6 dated March 26, 2018 (“Stipulation”), resolving this underlying lawsuit. On February 14,
7 2018, the Stipulation was signed by all parties and their respective attorneys and filed with the
8 court. On March 26, 2018, the Stipulation was signed by the court, wherein the court agreed to
9 retain jurisdiction to enforce the Settlement and to enter judgment thereon pursuant to Code of
10 Civil Procedure Section 664.6. (A true and correct copy of the Settlement Agreement with
11 attachments including the Stipulation and Proposed Judgment is attached as Exhibit A to the
12 Notice of Lodgment (“NOL”) filed concurrently herewith; a true and correct copy of the
13 Stipulation executed by the court is attached as Exhibit B to the NOL.) A dismissal without
14 prejudice was also entered by the court on March 26, 2018.

15 Under the terms of the Settlement, Defendants, as indicated below, were required to do
16 the following, which they have failed to do:

17 A. **Malan** (Section 2.1.2): Nonpayment of settlement sums in the monthly sum of
18 \$6,171.47, which are past due as of November 1, 2018. Total due is **\$12,342.94**. Assuming no
19 payments will be made until the hearing on January 10, 2019, the total amount due will be
20 **\$18,514.41**. After January 10, 2019, there will be five more monthly payments (in the amount
21 of \$6,171.47) remaining through June 1, 2019, totaling an additional sum of \$30,857.35.

22 B. **Balboa, SDUHG, Malan, Razuki Inv., Razuki** (Section 2.3.3): Nonpayment
23 of the Association’s insurance premiums totaling **\$19,452.09** for the remainder of the
24 premiums not paid for the 2018-2019 insurance year.

25 C. **Balboa, SDUHG, Malan, Razuki Inv., Razuki** (Section 2.4): Nonpayment of
26 Association water and sewer utilities totaling **\$13,901.45** as of the end of December 2018.

1 D. Balboa, SDUHG, Malan, Razuki Inv., Razuki (Section 2.7): Nonpayment of
2 sewer line repairs/replacement costs in the amount of \$82,347.

3 On November 13, 2018, the first demand letter was sent to SDUHG and Malan by the
4 Association Board President John Peek on behalf of the Association. On November 29, 2018,
5 a second demand letter was sent by Mandy D. Hexom of Epsten Grinnell & Howell, APC,
6 counsel for the Association, outlining the defaults or breaches of the Settlement Agreement. (A
7 true and correct copy of the Demand Letters, dated November 13, 2018 and November 29,
8 2018 are attached as Exhibits C and D to NOL). To date and as of the filing of this application,
9 no payments have been received for any of the requested sums set forth above to cure any of
10 the defaults.

11 In consideration of the terms in Sections 2.1.2, 2.3.3, and 2.4 in the Settlement
12 Agreement, among other terms, the Association agreed to provide a Use Variance to allow
13 Defendants to run and operate Marijuana Activities within the Association despite the recorded
14 enforceable restrictions that prohibit Marijuana Activities within the Association. (See Section
15 2.2 in the Settlement Agreement attached to the NOL at Ex. A.) The Settlement Agreement
16 states the following in part:

17 The Use Variance shall be in effect as long as Defendants are in
18 compliance with this Agreement, the Stipulation, any applicable
19 Conditional Use Permit, and state and local laws pertaining to
20 Marijuana Activities. In the event of a dispute between the
21 Parties related to the Use Variance, the Parties agree that such
22 dispute shall be made pursuant to an application or motion (with
at least 16 court days prior notice) to enforce this Agreement
which allows the non-moving party the opportunity to file an
opposition. If the Association prevails on such a motion or
application, Judgment shall be entered and the use Variance will
be deemed revoked.

23 (Settlement Agreement, Ex. 1, pg. 3, Sec. 2.2.)

24 It was agreed to by the parties that if the Defendants failed to perform any of the
25 Section 2 terms set forth in the Settlement Agreement, the Association can revoke the Use
26 Variance, have the dismissal set aside and seek enforcement of the Settlement including ex
27 parte entry of judgment against Defendants, as set forth at paragraph 2.2.2, 2.12, 2.17 in the
28

1 Settlement Agreement, and pursuant to Sections 2, 6, 7 and 8 of the Stipulation. Furthermore,
2 the court shall award the Association its attorney's fees and costs incurred to enforce the
3 Settlement Agreement pursuant to Section 2.17.3 of the Settlement Agreement and Sections 3
4 and 9 of the Stipulation.

5 **II. ENFORCEMENT OF THE SETTLEMENT**

6 Per Section 6 of the Stipulation, on November 13, 2018 and November 29, 2018, the
7 Association and the Association's counsel sent a notice letter to the Defendants' and/or their
8 respective attorneys. (NOL, Exs. C, D.) More than ten (10) days has passed since the letters
9 were delivered to the Defendants' or their attorneys and none of the defaults have been cured.
10 Accordingly, the Association turns to the court to enforce the terms of the Settlement
11 Agreement and to enter judgment against the Defendants, confirm revocation of the Use
12 Variance, and award the Association its attorney's fees and costs.

13 California Code of Civil Procedure section 664.6 states that:

14 If parties to pending litigation stipulate, in a writing signed by the parties
15 outside the presence of the court or orally before the court, for settlement of
16 the case, or part thereof, the court, upon motion, may enter judgment
17 pursuant to the terms of the settlement. If requested by the parties, the court
18 may retain jurisdiction over the parties to enforce the settlement until
19 performance in full of the terms of the settlement.

20 (C.C.P. § 664.6.)

21 The court in *Wackeen v. Malis* (2002) 97 Cal. App. 4th 429, 439, held that dismissal by the
22 trial court is not a bar to the court retaining both personal and subject matter jurisdiction in order to
23 enforce the terms of the settlement, until such time as all of its terms has been performed. The
24 court further made clear that the request that jurisdiction be retained until the settlement has been
25 fully performed must be made either in a writing signed by the parties themselves, or orally before
26 the court by the parties themselves. (*Wackeen, supra*, 97 Cal. App. 4th at pp. 440- 441.)

27 Since Defendants have breached the terms of the Settlement Agreement, and the court
28 affirmatively agreed to retain jurisdiction under Code of Civil Procedure section 664.6, the

1 Association requests that the court set aside the dismissal and enter Judgment as proposed against
2 Defendants.

3 **III. REWARD OF ATTORNEY'S FEES AND COSTS UPON DEFAULT:**

4 The court shall award the Association its attorney's fees and costs incurred to enforce
5 the Settlement Agreement pursuant to Section 2.17.3 and Sections 3 and 9 of the Stipulation.
6 The total amount of attorney's fees and costs is \$4,880.

7 **IV. CONCLUSION**

8 Accordingly, Plaintiff MONTGOMERY FIELD BUSINESS CONDOMINIUMS
9 ASSOCIATION herein requests that the Court grant the following relief: (1) to set aside
10 dismissal entered in the above-entitled case on March 26, 2018; (2) to enforce the Settlement
11 Agreement and Stipulation for Court to Retain Jurisdiction to Enforce Settlement Upon
12 Default ... and Order Thereon filed in the above-entitled action on March 26, 2018
13 ("Settlement"); (3) confirm revocation by the Association of the Use Variance for Marijuana
14 Activities as set forth in the Settlement; and (4) for entry of Judgment against Defendants
15 BALBOA AVE COOPERATIVE ("Balboa"), SAN DIEGO UNITED HOLDINGS GROUP,
16 LLC("SDUHG"), NINUS MALAN ("Malan"), RAZUKI INVESTMENTS, LLC ("Razuki
17 Inv."), and SALAM RAZUKI ("Razuki").

18 To summarize, the current amounts owed and past due (as of the filing of these papers),
19 making Defendants in default of the Settlement Agreement, which has not been timely cured,
20 (not including the other settlement terms set forth in the Settlement Agreement) are the
21 following:

- 22 • Malan currently owes \$12,342.94 as of the date of this filing.
- 23 • All Defendants currently owe \$33,353.54 as of the date of this filing.

24 Furthermore, the owners of the units, SDUHG, are currently past due in paying the
25 Association's assessments.

26 The Association's request is based upon this application, the memorandum of points
27 and authorities in support thereof, the Declaration of John Peek (Association Board President),
28

1 the Notice of Lodgment filed herewith, on the [proposed] Order granting the application
2 lodged herewith, the Proposed Judgment (also lodged herewith), and on all pleadings and other
3 documents on file with the court, the arguments of counsel at the hearing, and all matters of
4 which this court may take judicial notice.

5
6 Dated: December 10, 2018

EPSTEN GRINNELL & HOWELL, APC


7
8 By: 
9 Mandy D. Hexom
10 Attorneys for Plaintiff
11 MONTGOMERY FIELD BUSINESS
12 CONDOMINIUMS ASSOCIATION
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EXHIBIT H

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 12/17/2018

TIME: 02:26:00 PM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2018-00034229-CU-BC-CTL** CASE INIT.DATE: 07/10/2018

CASE TITLE: **Razuki vs Malan [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

APPEARANCES

The Court, having taken the above-entitled matter under submission on 12/14/2018 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The request to add Sunrise Property Investments, LLC to be included in the receivership proceedings is denied.

Defendants Ninus Malan, Monarch Management Consulting Inc., San Diego United Holdings Group, Balboa Ave Cooperative, Devilish Delights Inc., and California Cannabis Group's for order setting appellate bond amount is granted, in part. Defendants Chris Hakim, Mira Este Properties LLC, and Roselle Properties LLC for order setting appellate bond amount is granted, in part.

The court sets the appellate bond as follows:

Ninus Malan appellate bond is set at \$350,000.

San Diego United Holdings Group's appellate bond is set at \$350,000.

American Lending and Holdings LLC's appellate bond is set at \$350,000.

Flip Management LLC's appellate bond is set at \$350,000.

Balboa Ave Cooperative's appellate bond is set at \$50,000.

Devilish Delights Inc.'s appellate bond is set at \$50,000.

California Cannabis Group's appellate bond is set at \$50,000.

Chris Hakim's appellate bond is set at \$350,000.

Mira Este Properties LLC's appellate bond is set at \$350,000.

Rosell Properties LLC's appellate bond is set at \$350,000.

Based upon various representations during oral argument that all parties must cooperate in order to be effective, in order to vacate the receiver, each party must post bond.

The motion to appoint Kevin Singer as receiver is denied.

The motion to add Sunrise Property Investments, LLC to the receivership is denied.

Eddie C. Sturgeon

Judge Eddie C Sturgeon